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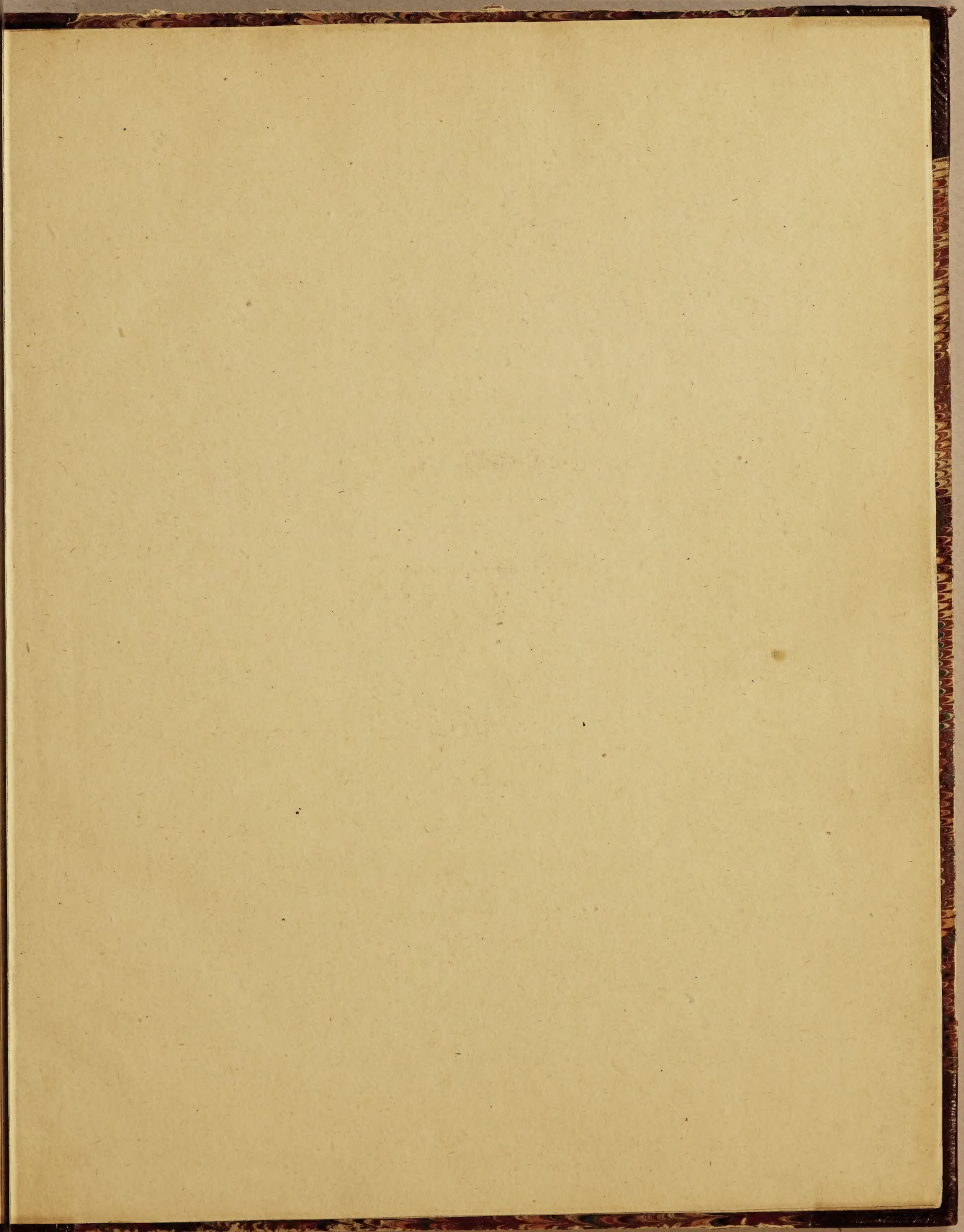


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T H E
C A S E
O F
Mr. JOHN GORDON,
WITH RESPECT TO THE
TITLE to certain LANDS in EAST FLORIDA,
PURCHASED OF HIS CATHOLICK MAJESTY'S SUBJECTS
BY HIM AND MR. JESSE FISH,
F O R
THEMSELVES AND OTHERS HIS BRITANNICK
MAJESTY'S SUBJECTS;
I N
CONFORMITY TO THE TWENTIETH ARTICLE
OF THE LAST DEFINITIVE TREATY OF PEACE.

W I T H A N A P P E N D I X.

L O N D O N:
PRINTED IN THE YEAR M.DCC.LXXII.

THE
CASE

MR. JOHN GORDON

OF THE

TITLE TO CERTAIN LANDS IN EAST LINDSEY

IN THE COUNTY OF LINCOLN

MR. GORDON'S CASE

VS.

THE LORDS OF THE MANOR OF EAST LINDSEY

IN THE COURT OF CHANCERY

IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND FIFTY

AND IN THE REIGN OF HER MAJESTY QUEEN VICTORIA

IN THE FIRST YEAR OF HER MAJESTY'S PRESENT MAJESTY

WITH AN APPENDIX

CONTAINING THE DEEDS AND OTHER DOCUMENTS

RELATIVE TO THE CASE

AND THE DECISION OF THE COURT

IN THE YEAR ONE THOUSAND SEVEN HUNDRED AND FIFTY

AND IN THE REIGN OF HER MAJESTY QUEEN VICTORIA

Mr. GORDON's CASE.

THE definitive treaty of peace concluded at Paris on the 10th day of February 1763, was immediately on the exchange of the ratifications thereof officially transmitted to the governors of his majesty's several provinces and colonies in America, and by them promulged.

Mr. John Gordon, who then (and for many years before had) resided in South Carolina, where he carried on a very extensive trade and commerce, apprehended, from the words in which the 20th article of the said definitive treaty is conceived, that a favourable opportunity presented itself to him for making a purchase

chase of lands in Florida*; Mr. Gordon therefore wrote to his correspondent Mr. Jesse Fish, who resided at St. Augustine, the capital of East Florida, desiring him to enter into a treaty for the purchase of large tracts of land there. In answer to this, Mr. Fish informed Mr. Gordon that the extensive country ceded to Great Britain by the name of Florida, contained large tracts of barren and unprofitable land, the soil of which was naturally bad and incapable of improvement; very large tracts of uncleared and uncultivated lands, the soil of which was naturally good; and also some very large tracts of excellent land

* ARTICLE XX. In consequence of the restitution stipulated in the preceding article, his Catholick majesty cedes and guaranties, in full right, to his Britannick majesty, Florida, with fort St. Augustine, and the bay of Pensacola, as well as all that Spain possesses on the continent of North America to the east, or to the south east, of the river Mississippi. And, in general, every thing that depends on the said countries and lands, with the sovereignty, property, possession, and all rights, acquired by treaties or otherwise, which the Catholick king, and the crown of Spain, have had, till now, over the said countries, lands, places, and their inhabitants; so that the Catholick king cedes and makes over the whole to the said king, and to the crown of Great Britain, and that in the most ample manner and form. His Britannick majesty agrees, on his side, to grant to the inhabitants of the countries, above ceded, the liberty of the Catholick religion: he will consequently give the most express and the most effectual orders, that his new Roman Catholick subjects may profess the worship of their religion, according to the rites of the Romish church, as far as the laws of Great Britain permit: his Britannick majesty further agrees, that the Spanish inhabitants, or others who had been subjects of the Catholick king in the said countries, may retire, with all safety and freedom, wherever they think proper; *and may sell their estates, provided it be to his Britannick majesty's subjects*, and bring away their effects, as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except that of debts, or of criminal prosecutions: the term, limited for this emigration being fixed to the space of *eighteen months*, to be computed from the day of the exchange of the ratifications of the present treaty. It is moreover stipulated, that his Catholick majesty shall have power to cause all the effects, that may belong to him, to be brought away, whether it be artillery or other things.

which

which had been cleared, cultivated, and improved, and reduced by the Spanish proprietors into regular settlements, and were then of great value, but which might be soon rendered much more valuable when in the hands of British settlers, and cultivated in the mode adopted in the British colonies.

That in order to make a large purchase of such lands as are lastly described, a very large sum would be necessary, which must be deposited at St. Augustine, either in specie or in goods vendible among the Spaniards, as no good purchase could be made unless the whole of the purchase money were paid down at or before the execution of the conveyances.

That if Mr. Gordon should be able to raise a fund sufficient to carry his design into execution, he, Mr. Fish, would be glad to hold a share in the concern; that from his personal knowledge of several valuable tracts of lands, and his intimate acquaintance with the proprietors of them, and his skill in the Spanish language, all which he had acquired by many years residence as an agent or factor at St. Augustine, he was well assured he should be able to give him every necessary information and assistance.

On the receipt of this intelligence, Mr. Gordon (as it was necessary a large sum of money should be immediately raised) communicated it to several of his correspondents and friends, who had expressed a desire of purchasing lands in Florida; and it was thereupon agreed, that a large sum in specie and various merchandize should be immediately raised, and that Mr. Gordon should, with all convenient speed, proceed

ceed therewith to St. Augustine, in order to purchase lands of the Spanish proprietors on account of himself, Mr. Jesse Fish, and the several persons who should contribute to raise the fund, and who being all of them his majesty's natural born subjects were to be interested in the concern in such shares as it was agreed between them.

The necessary fund being raised in consequence of this agreement, Mr. Gordon proceeded therewith from Charles Town in South Carolina, and arrived at St. Augustine some time in the month of August 1763; but previously to his arrival there, Mr. Fish had, in consequence of directions from him, entered into several contracts for the purchase of lands, and it was soon made known that Mr. Gordon brought money and effects with him to enable Mr. Fish to complete his contracts.

His excellency Don Melchor Feliu, lieutenant colonel of the regiment of Spain, governor and captain general for the time being of the province of Florida, perceiving that, in consequence of the 20th article of the Definitive Treaty of peace, British subjects were about to purchase lands in Florida, and as it was probable some attempts might be made to impose on them by persons pretending to be the proprietors of lands to which they had not any valid title, he therefore declared it much concerned the dignity of his royal master, that the utmost care should be taken by his officers in Florida, that such persons as purchased of *his* subjects, in consequence of the above-mentioned article of the Definitive Treaty, to which *he* was a party, should have their respective purchases secured,

and their titles to them ascertained and exemplified, in the best and most authentic manner; and for this purpose his excellency in an assembly (*junta general*) composed of the members of his council and the principal landholders in the province, commissioned Don Juan de Cotilla (an experienced officer, and conversant in the matters to be referred to him) to receive all proofs and evidence of titles, which persons claiming to be the proprietors of lands and other real property should produce before him, and ultimately to decide thereon: of this commission publick notice was given; and all British subjects who were about to purchase lands or other real property, were thereby advised and warned not to complete any purchase until the titles of those who should take upon them to dispose of such real property were examined, investigated, and approved of by the said Don Juan de Cotilla, whom his excellency declared to be well and sufficiently invested with all lawful power and authority to act in the premises.

The wisdom and good faith of this measure of the Spanish government in Florida is very obvious; it included an honourable, fair, and impartial attention to the just rights of the contracting parties, the subjects of the crowns of Great Britain and Spain: it was in the highest degree agreeable to the true and lawful proprietors of lands in Florida; nor was it less so to Mr. Gordon and Mr. Fish, whose design was to purchase lands for a fair and valuable consideration; and not thereafter to avail themselves of pretended titles, purchased for little or no consideration, notwithstanding they plainly foresaw that it

would necessarily raise the price of lands to which good and indisputable titles could be made; and it was only such that they were desirous of purchasing.

On these grounds and assurances, and with these precautions, Mr. Gordon and Mr. Fish, in the months of September and October 1763, made several purchases of very large tracts of land of various Spanish proprietors; among others, they purchased of Don Francisco Chrysofomo a large tract, known by the name of *Palica*, situate about three or four leagues from the city of St. Augustine: a short detail of the proceedings in which purchase, and of the evidence produced to shew a good title in the vendor, and of the manner in which the several proceedings, evidence, and conveyance were authenticated and confirmed, Mr. Gordon doubts not will sufficiently prove, beyond all suspicion, the notoriety, care, caution, and good faith with which the purchase in question was begun, carried on, and completed; for which reason he thinks it necessary to insert such detail in this his case, and to subjoin thereto the whole proceedings (faithfully translated from the originals in Spanish by Mr. Baretti) by way of Appendix.

Mr. Gordon, Mr. Fish, and Don Francisco Chrysofomo having agreed for the purchase of *Palica*, Don Francisco presented a petition to his excellency the governor Don Melchor Feliu, setting forth, that the lands in question descended to him from his ancestors, to part of which they derived a title by royal grants; and to the residue by purchases, for valuable
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consideration ; and he therefore prayed that the evidence which he had to produce to prove his title thereto, might be received and examined, in order that he might avail himself of the permission granted to his Catholick majesty's subjects in Florida to to dispose of their lands in conformity to the twentieth article of the definitive treaty of peace. Vide Appendix, Exhibit, N° I.

This petition was answered by an *auto*, or instrument, dated 28th September 1763, wherein it is recited, that Don Juan de Cotilla had been authorized, as is herein before-mentioned, to receive the evidence of titles to all *real property* in Florida ; and his excellency thereby signified his approbation that the petitioner's evidence in support of his title should be received and proceeded on ; this was signed by his excellency in due form in the presence of Don Joseph de Leon, his Catholick majesty's secretary or notary for civil and military affairs in Florida*. Vide Exhibit, N° II.

On the due notification of the above *auto* to the judge Don Juan de Cotilla, he appointed a day for the production of witnesses, and other evidence. Vide Exhibit, N° III.

And accordingly, on the 3d October 1763, Don Francisco Chrysofomo produced Antonio Joseph Rodrigues y

* Escriváno de Gobierno y Guerra.

Quiros, a native of Florida, aged *eighty-one years and upwards*, who being sworn by the name of Almighty God, and by the sign of the cross, in due form of law, and being required to speak the truth with respect to the matter of the said petition, on his oath deposed, That he had been several times on the lands in question, and knew them to be in the *actual* possession of Juan Chrysofomo, the petitioner's *grandfather*, by virtue of royal grants and purchases made by him. He also described the boundaries of the lands to be such as mentioned in the petition. Vide Exhibit, N° IV.

Ildefonso Sanchez, a lieutenant of dragoons, of the age of *fifty-four years and upwards*, being sworn, and required to speak the truth as aforesaid, on his oath deposed, That to *his certain knowledge* the lands in question descended on the petitioner from his ancestors, who were in the *actual* possession of them by virtue of royal grants and purchases. He also described their boundaries, being well acquainted therewith. Vide Exhibit, N° V.

And lastly, Don Phelipe Horrutiner, a native and inhabitant of Florida, of the age of *fifty-eight years and upwards*, being sworn, and required to speak the truth as aforesaid, on his oath deposed, That he of his *own knowledge* knew, and it was *public and notorious*, that the lands in question were the property of the petitioner, he having *inherited* them from his father Juan Chrysofomo, who came into possession on the death of *his* father Juan Chrysofomo, in whose *actual* possession
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the deponent knew them to be by virtue of royal grants and purchases made by him. He also described the boundaries to be such as before described by the other witnesses, and said that he had been several times on the lands in question. Vide Exhibit, N° VI.

The petitioner having thus laid before the judge parol proof of the actual possession of the lands of *Palica*, he then proceeded to lay before him written evidence of the title by which such possession was acquired and maintained; and for that purpose he produced attested copies of the following deeds and writings, the originals of which had been duly registered, *and were then remaining on record* in the register office or public archive of the said province.

A conveyance or deed of sale, bearing date St. Augustine in Florida, 1st September 1656, whereby Juan de Penalosa bargains and sells for a valuable consideration a certain tract of *corn land*, situate in the district of St. Nicholas (being part of the lands comprized in the boundaries mentioned in the said petition) to his cousin Juan Chrysoftomo, *and his heirs for ever*, with the usual warranty. Vide Exhibit, N° VII.

A conveyance or deed of sale, bearing date St. Augustine the 29th April 1676, whereby Captain Don Lorenzo Joseph de Leon, by virtue of the powers therein particularly recited, bargains and sells for a valuable consideration to Juan Chrysoftomo, *and his heirs for ever*, certain lands in the district of *Palica*

(within the boundaries mentioned in the petition) with the usual warranty. Vide Exhibit, N° VIII.

A petition of Juan Chrysoftomo to his excellency Don Pablo de Hita y Zalazar, the then governor of Florida, praying that certain lands which were the property of the crown, and in his petition mentioned, might be granted to him. Vide Exhibit, N° IX.

A grant of the said lands (being within the limits of *Palica*) bearing date in St. Augustine the 19th of May 1676, from his excellency the governor to the said Juan Chrysoftomo, and *his heirs for ever*. Vide Exhibit, No. X.

Don Francisco also produced, before the judge, an attested copy of a deed of exchange, bearing date St. Augustine, 30th May 1676, made between Don Francisco de la Rocha, the then treasurer of the city of Augustine, and Juan Chrysoftomo, the petitioner's *grandfather*, whereby the said Don Francisco conveyed to the said Juan Chrysoftomo, and *his heirs for ever*, a certain tract of *corn land* (within the limits of *Palica*) in exchange for other lands conveyed to him by the said Juan Chrysoftomo. Vide Exhibit, N° XI.

A deed of sale or conveyance, bearing date the fourth day of January 1677, from Don Francisco Gonzales de Villa Garcia, for a valuable consideration, to Juan Chrysoftomo, the petitioner's grandfather, and *his heirs for ever*, of a certain tract of *corn land* in the district of *Sabanillas*, and which

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is situate within the boundaries in the petition mentioned. Vide Exhibit, N° XII.

A petition from the said Juan Chrysofomo to his excellency the governor, setting forth the purchases he had made, and the grant of lands from the crown, and that the crown lands were barren and not fit for cultivating, and praying that an abatement should be made to him of the fine which he was to pay into the royal treasury for the said lands. Vide Exhibit, N° XIII.

A reference of the said petition to the judges and officers of the royal treasury, and their report thereon, bearing date 6th November 1677, and his excellency the governor's approbation thereof. Vide Exhibits, N° XIV, XV, and XVI.

A renewed grant of the said lands which had been before granted to the said Juan Chrysofomo at such fine as the judges (officers of the royal treasury) should set, bearing date 8th November 1667. Vide Exhibit, N° XVII.

A report of the said judges that the said fine was set at thirty dollars, and a certificate that the same was paid into the royal treasury. Vide Exhibits, N° XVIII, XIX.

A deed of sale or conveyance, bearing date the 14th August 1682, from Don Antonio Menendez Marquez, judge and officer of the royal treasury (*conta duría*) of the province of Florida, to Juan Chry-

Chrysoftomo, and *his heirs for ever*, of a certain tract of *cultivated land* within the boundaries in the said petition mentioned. Vide Exhibit, N° XX.

The petitioner then produced proof that the attested copies of the several conveyances before-mentioned had been compared with the originals *then remaining on record* in the publick archive of the province, that they agreed therewith, and that he was the *grandson* of the said Juan Chrysoftomo in the said deeds mentioned. Vide Exhibit, N° XXI.

And as Don Francisco Chrysoftomo claimed title to two tracts of land comprized within the boundaries described in the said petition, under the will of Donna Loronza Arangues y Sartucha, his grandmother, bearing date 7th February 1705. He lastly produced an attested copy of so much of the said will as related thereto, and evidence of the said tracts being in the *actual* possession of the petitioner. Vide Exhibit, N° XXII.

The several witnesses, and deeds herein before-mentioned, having been carefully examined and inspected by the judge Don Juan de Cotilla, he, by an instrument bearing date the 17th October 1763 (after reciting the authority under which he acted) declares that after due examination it appeared manifest to him that the petitioner Don Francisco Chrysoftomo was the *lawful proprietor and possessor of all the lands comprized within the boundaries described in the said petition*, and that he had full power to sell or alienate the same to any
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subject or subjects of his Britannick majesty, agreeably to the twentieth article of the definitive treaty of peace signed at Paris the 10th of February 1763, provided such sale or alienation should be made within the time limited by the said treaty. Vide Exhibit, N° XXIII.

The title of Don Francisco Chrysofomo to the lands which he had contracted to sell to Mr. Gordon and Mr. Fish having been thus publickly examined and investigated, and thus solemnly established, nothing more was necessary for completing the contract, than the payment of the consideration money by one of the contracting parties, and the execution of the deed of conveyance by the other : and accordingly, by a certain deed or instrument, bearing date St. Augustine in Florida, 20th October 1763, made between Don Francisco Chrysofomo of the one part, and the said Mr. John Gordon and Mr. Jesse Fish of the other, the said Don Francisco, in consideration of 4500 pieces of eight, amounting to 770 l. sterling and upwards, which he acknowledged to have received *in money and goods to his entire satisfaction*, sold, conveyed, and transferred to the said Mr. Gordon and Mr. Fish, *and their heirs*, all the lands in the petition herein before-mentioned, and in the said deed, and in a map or plan annexed thereto, particularly described, with a clause of warranty ; which deed was executed by all the parties, in the presence of several witnesses therein named ; and, as the laws and customs of Florida required, in the presence of Don Joseph de Leon, the royal notary and public register of the said province. Vide Exhibit, N° XXIV.

That

That Don Joseph de Leon executed the offices above-mentioned, that to all deeds and instruments attested by him, entire faith and credit ought to be given, and that the said sale was completed within the time limited by the said definitive treaty is certified by Don Juan de Cotilla. Vide Exhibit, N° XXV.

With the like notoriety, investigation, and allowance of the titles, Mr. Gordon and Mr. Fish also purchased of various proprietors the several tracts of lands here under-mentioned*, consisting of *several hundred thousand acres*, and did actually and *bona fide* pay (including the sum paid to Don Francisco Chrysostomo) in goods and specie, the sum of 10,000l. sterling, and upwards, as the consideration money of such purchases: and they have now in their custody, ready to be produced, the several conveyances under which they claim, the exemplification of the title of those of whom they purchased, the proceedings before Don Juan de Cotilla, and his certificate of his examination, and approbation of the titles of the respective vendors.

The purchases having been thus made by the permission, and under the authority of his excellency the governor Don Melchor Feliu, he, together with Don Juan Estevan de Penâl, his Catholick majesty's treasurer, or fiscal of his royal revenue in Florida, certified that Mr. Gordon and Mr. Fish, by virtue of

† Pupo, Pajacara ô Agopo, San Diego, La Nea, San Buena Ventura, Tocoy, St. Lucia, San Lorenzo de Aramafaca, San Matheo, San Nicholas, San Jeronimo, Arato and Exfapile, Picalata, San Onofre and Pirigirigua, San Phelipe and Aracu, Los Corrales y Yquirico, St. Ana de Alfaja, Tocacruz, Yquifay, La Rosa del Diablo, Acuilasiqui, La Chua, Abosaya and Tampa.

and

and in conformity to the twentieth article of the Definitive Treaty of peace as aforesaid, had purchased in due form of law (*con efecto*) the several tracts of land herein before referred to of the several proprietors who are in the said certificate particularly mentioned and declared to have *inherited and possessed* the said lands by good and valid titles, as appeared on a due examination thereof by Don Juan de Cotilla, the judge-commissioned by the council (*or junta general*) for that purpose.

And they further certified, that the legality of the said purchases having been established and made manifest to them by the production of the respective deeds of conveyance, and the certificate of Don Juan de Cotilla; therefore they declared that Mr. Gordon and Mr. Fish were the true *and lawful owners and possessors* of the said lands by virtue of the Definitive Treaty of peace, and the said deeds of conveyance.

This certificate was signed by his excellency the said Don Melchor Feliu, and the said Don Juan Estevan de Penâl, sealed with the seal of the royal treasury (*contaduría*), and counter signed by Don Joseph de Leon, his Catholick majesty's secretary for the said province of Florida. Vide Exhibit, N° XXVI.

There was not as yet any civil magistrate established at St. Augustine, who acted under any authority derived from his Britannick majesty; however as Mr. Gordon's and Mr. Fish's transactions were legal, open, and notorious, they thought it adviseable to have the execution of the several deeds of convey-

ance proved before major Francis Ogilvie, who then commanded the British forces in Florida; and it appears by his certificate, bearing date St. Augustine 1st day of December 1763, that the several purchase deeds were produced before him, with maps or plans thereunto annexed, and that the due execution thereof by the vendors, who acknowledged to have respectively received the consideration money therein-mentioned, was proved by the oath of Joseph del Ormé, the English interpreter to the late Spanish governor of Florida. Vide Exhibit, N° XXVII.

By his majesty's royal proclamation, bearing date 7 October 1763, the country of Florida, ceded to the crown of Great Britain by the 20th article of the Definitive Treaty of peace, was declared to be divided into two distinct and separate governments by the names of East and West Florida, bounded as is therein-mentioned: and in or about the month of August 1764, colonel James Grant arrived at St. Augustine with his majesty's commission appointing him captain-general and commander in chief of his majesty's province of East Florida, and vice-admiral of the same.

As the lands which had been purchased (in the manner above-mentioned) by Mr. Gordon and Mr. Fish were comprehended within the boundaries of the government of East Florida, Mr. Gordon (whom Mr. Fish had legally empowered to transact all matters relative to their joint purchase) waited on governor Grant immediately on his arrival at his government, informed him of the purchases which he had made, produced
before

before him plans of the several tracts of land, the conveyances under which he claimed them, together with major Ogilvie's certificate of proof being made before him of the due execution of the conveyances; he therefore prayed that they might be recorded in the register office then erected in St. Augustine, and that care might be taken that no grant should be made of any of the lands which Mr. Gordon and Mr. Fish had purchased of the Spanish proprietors.

In consequence of this application, governor Grant acquainted him that he had received his majesty's commands "not to admit of any claims which should be made within the province under his government on pretence of purchases, grants, or conveyances from the subjects of Spain, nor to suffer any such claims to be entered on record, *excepting such only as having been first presented to his majesty should have received his royal approbation on a proper examination of them by the crown lawyers in England, nor before such royal approbation should be regularly signified to him;*" and governor Grant at the same time declared, "that when application should be made to him in council, he would grant the lands in the same manner as if no purchases of them from the Spanish proprietors had ever been made, and *that he would not allow any action to be brought against the grantees of such land before any court of law in that province, alleging that the case was not cognizable by any court of justice in America, but that the purchasers who supposed themselves aggrieved must apply to his majesty for redress.*"

This declaration on the part of governor Grant, that Mr. Gordon's deeds should not be recorded in the publick office, and that the king's courts should be shut against him, Mr. Gordon confesses he could not but consider as an unwarrantable invasion of the *native rights and privileges* of a British subject, and an express violation of those *acquired* rights with which he conceived himself to be vested, as being derived under the sanction of the publick and private faith and convention of *all parties, who before or since the conquest and cession of Florida* could claim any interest in the *lands in question*: therefore, as he foresaw that many inconveniencies might arise to himself, and those concerned with him in the purchase, as also to the grantees of the crown in case the governor should grant away the lands which had been conveyed to him and Mr. Fish, he thought it incumbent on him to give publick notice of his claim at St. Augustine, which was done by repeated printed advertisements: and in the month of November 1764, Mr. Gordon presented a memorial to governor Grant, wherein he set forth his case, and informed him that he had transmitted to his agents, merchants in London, under the seal of the province of South Carolina, copies of the plans of the several tracts of lands which had been purchased, and the certificate of the Spanish governor and the treasurer of his Catholick majesty's royal revenues in Florida, that Mr. Gordon and Mr. Fish were by good and valid title, for valuable consideration, become the true and legal owners and proprietors of the said lands, and that he had authorized his correspondents to make such application and proposal to government as was therein and is herein-

herein-after particularly mentioned: the memorial further set forth, the injustice that the memorialist conceived would be done him if the lands should be granted away without any regard being paid to his claim; he therefore prayed that the governor and his council would take the circumstances *in which his case then was* into their consideration.

Whether governor Grant could or could not, consistently with the royal instructions which he had received, suspend granting the lands in question until the event of the above-mentioned application to government had been duly signified to him, was a matter not to be determined by Mr. Gordon's opinion: however that may be, he soon found that his memorial would produce no better effect than his personal application, as he had the mortification to see large tracts of land comprized within his purchase daily granted away by the governor and council, as if no right or title to them whatever were vested in Mr. Gordon and Mr. Fish, *or that they had abandoned and taken no step to assert such right.*

By the long detention of the vessel in America which conveyed Mr. Gordon's papers and instructions to his correspondents in London, and the time spent in preparing a case, and procuring the opinion of council thereon, it was not until late in the year 1765 that Mr. Gordon's agents were advised, that under the then circumstances of his case the proper mode of seeking relief was by a memorial addressed to his majesty in council.

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In consequence of which advice, Mr. Gordon's agents, soon after it was received, presented a memorial addressed to the king's majesty in council, whereby they set forth the circumstances under which the purchases of the lands were made, and governor Grant's declaration to Mr. Gordon on his application to him that no grant should be *improvidently* made of the lands which he claimed: and the memorialists further set forth, that if it were apprehended that the propriety of such *extensive* tracts of lands as were purchased by Mr. Gordon and Mr. Fish, being vested in a few individuals, would at all impede or interfere with the measures which his majesty's ministers might have formed for the better and more speedily settling the province of East Florida, they, the memorialists, were duly authorized to treat with government; and if his majesty should be advised that the purchasers holding the whole of the said lands would be prejudicial to the publick interest and welfare of the province, they (*submitting the title to the inspection and opinion of his majesty's law servants*) would sell and convey *any part* of the said lands that it should be thought proper to have vested in the crown at a fair and moderate price: the memorialists therefore prayed, that if government should decline purchasing of Mr. Gordon and Mr. Fish, that orders might be sent to governor Grant that they should be permitted to avail themselves of *their legal and just rights*, or that they might be relieved in such other manner as to his majesty should seem meet.

This memorial was, soon after it was presented, referred to the consideration of the lords commissioners of trade and plantations ;

tations ; which being made known to Mr. Gordon's agents, they, in the beginning of the year 1766, presented a memorial much to the same purport with the foregoing, immediately addressed to the said lords commissioners, excepting only that by the last-mentioned memorial they (having received further instructions from their principal) prayed that if his majesty should be advised to purchase of Mr. Gordon and Mr. Fish, a certain quantity of land (very small when compared with the quantity purchased by them) might be reserved by the purchasers, as they intended immediately settling several industrious families thereon.

It was not until the month of June 1768, that it was signified to Mr. Gordon by a message from governor Grant, that he had received instructions that Mr. Gordon should bring an action of *trespass* in the names of himself and Mr. Fish, against a grantee of part of the lands they claimed, who was to justify under the grant, in order that if judgment should be given *contrary to the opinion of the attorney general of Florida*, an appeal might be brought to the king in council, *and prosecuted at the expence of the crown.*

This message was received by Mr. Gordon in Charles Town, in South Carolina: in consequence of which he embarked for Florida as soon as he conveniently could; and on the 3d of September 1768 presented a memorial to governor Grant, wherein he briefly stated some objections to the mode proposed for his asserting his right, and the proposals which he had empowered

powered his agents to make to government, and submitting his title to the lands to any enquiry which the governor should think proper to make, he prayed that he would be pleased to represent the circumstances of his case to be such as deserved redress.

Mr. Gordon is well aware that from his declining to prosecute his right in the manner above proposed, an inference may possibly from that circumstance *alone* be drawn to his prejudice; to obviate which, and that the merits of his case may be the better known and understood, it is necessary for him to delineate a short sketch of the situation in which he was in the year 1768.

As Mr. Gordon's claims extended very widely, and to the most valuable tracts of lands in the province, it was at this time *impossible* to have made out a panel of land holders, but who as *grantees* were in possession of lands comprized in Mr. Gordon's purchases, the *validity* of which grants the action *to be tried by them* was brought *to impeach*.

There was not at this time any advocate *or other person who practised the law in Florida*, except the attorney-general, who was directed to take upon him the defence of the grantee of the crown; and it was not only necessary to Mr. Gordon that he should have the assistance of an able advocate at the trial of an action on which so much depended, but it was also of the greatest importance to him *that the pleadings should be properly*

settled before issue was joined; and that he should be well advised whether he should demur or reply to the defendant's plea or justification, as for want of such advice and assistance *fatal* mistakes might be made, and *decisive* advantages overlooked; the former of which (*he would be told*) could not be amended, nor could he avail himself of the latter, *after a verdict had been given against him.*

But the abilities of the most skilful advocate, exerted before the most *impartial* judge, and *unbiassed* jury, could not possibly have been of any service to Mr. Gordon.

The action which he was *permitted* to bring to try the validity of his purchases was *prescribed to be* an action of *trespass*; in which action, when brought for an injury done to *real* property, the law of England requires proof to be given of *actual possession* in the plaintiff; and Mr. Gordon could not then have proved his having been put into *actual* possession of the lands; for such ceremony as is known in the English law by the name of livery of seisin (and necessary by the common law for passing a freehold) was not at all requisite by the laws and customs of Florida at the time of his purchase; by which (as may be collected from the several deeds of alienation set forth in the appendix) a deed of conveyance of lands, when duly executed, does itself virtually and effectually transfer *the possession* to the *use* in like manner as in England, *the use* (by the operation of the statute of the 27th Henry VIII.) is transferred *to the possession.*

Admitting that the above difficulty might have been got over (as Mr. Gordon and Mr. Fish had several hundred heads of cattle depasturing on part of the lands) yet, not only the *actual* possession, but the *right* of possession was the material point in issue to be determined by the action: this right the plaintiffs must have founded on the several deeds of purchase which were respectively duly executed for a *valuable consideration* in the year 1763; but there was not a *single* witness to be found in Florida in the year 1768, when Mr. Gordon *was permitted* to bring his action, who could give evidence of the execution of either of the deeds.

If the deeds (after proof of due execution) had been recorded in the register office of the province, the production of the deeds, or of exemplifications of them after they had been so recorded, would have superseded the necessity of producing *vivâ voce* evidence of the execution on the trial.—Mr. Gordon, *whilst his witnesses were in Florida*, frequently applied to the register that his deeds might be recorded in the usual manner, but his request was as constantly refused by the express orders and directions of governor Grant, agreeably to his personal declarations to Mr. Gordon: for these reasons, the plaintiffs in the proposed action, must unavoidably have been nonsuited, in which case *no appeal could possibly have been brought by them*.

These then are the unequal terms on which Mr. Gordon, if he had unadvisedly brought the action, would have been engaged.

—If

—If judgment had been given in favour of the plaintiffs *contrary to the opinion of the attorney-general of Florida, the (advocate for the defendant)* they must have abandoned their right, or prosecuted a tedious and very *expensive* appeal to his majesty in council, which, on the part of their adverse party, they were *precautioned* would be defended at the expence of the crown ; but if the plaintiffs had been nonsuited (which they necessarily and unavoidably would have been) *they could not bring an appeal to any court of judicature in which the merits of their case might be adjudged and decided on.*—For his declining this *unequal* contest, Mr. Gordon persuades himself the above plain state of facts will convey not only a bare apology, but to every impartial mind *a sufficient justification.*

The conviction with which Mr. Gordon was impressed of the validity of the titles to the lands which he had purchased, flattered him for a long time with the strongest expectations that government would accede to the fair, moderate, and equitable proposals which had been made on his behalf ; but after the exchange of many letters and a considerable lapse of time, he was at last informed by his agents, that they were not able to procure him any other redress than a permission for him to try his right at law in Florida ; therefore, as it was an affair of so much importance to him, they advised him to come over to England and solicit it in person.

At the time and for some years before the receipt of this intelligence, Mr. Gordon was concerned in a very extensive scene of business in the province of Georgia, as well

as in that of South Carolina, for the direction and management of both of which his personal attendance was alternately necessary ; and it was not without the utmost regret that he saw himself now reduced to the disagreeable dilemma of either considering as entirely lost the *large* sum of money which he had *on his own account* invested in the purchases made in Florida, or of absenting himself for some time from his business in America : his confidence in the goodness of his case, and the principles of justice and equity which direct his majesty's councils, induced him to believe that the merits of his case were not properly displayed or thoroughly understood ; he therefore determined (inconvenient as it was) to quit America as soon as he could possibly make the necessary disposition and arrangement of his affairs, and proceed to England ; where he lately arrived, and presented a memorial to the king's majesty in council, setting forth the circumstances of his case, and praying that an examination and inspection may be made of the validity of the title to the lands purchased as aforesaid ; and if on such examination it shall appear to be well-founded, that it may be allowed and established ; or otherwise, if his majesty shall be advised that in the *present situation* of the province of East Florida a *general inconvenience* might arise from the establishment of the title, that he would be graciously pleased to order an *adequate compensation* to be made to the persons interested in the said lands ; in which case they (in order to accommodate government) are willing to convey all their right and title thereto in such manner as shall be required of them.

From

From the situation in which the Spanish proprietors of the lands were at the time that they disposed of their interest in them, it may well be supposed (nor has Mr. Gordon any desire to conceal) that the purchases were made on terms very advantageous to the vendees; nor can it be imagined that merchants, whose capitals are never equal to the opportunities of employing them, would invest so considerable a sum of money as upwards of 10,000l. sterling in lands, without the fair prospect of a considerable advantage: and therefore Mr. Gordon apprehends, that under the terms *adequate compensation* mentioned in his memorial, may be well comprehended, not only the principal, and interest on the purchase-money, the costs of the conveyances, the expence of different voyages to Florida and England, but also *some reasonable and moderate allowance* for the disappointment of that profit which the purchasers would undoubtedly have made, if they had been permitted to have availed themselves of what they conceive and trust will, on due examination, appear to be *their just rights*.

Mr. Gordon and Mr. Fish, who are conscious of having acted in every stage of these transactions with the purest good faith and most justifiable intentions, rest their present application to government *entirely on the merits of their case, and the justice of the crown*, and humbly hope that such enquiry will be directed to be made, and such relief granted, as are prayed by their memorial, among other, for the following

REASONS:

R E A S O N S :

- I. Because by the 20th article of the last Definitive Treaty of peace concluded at Paris on the 10th of February 1763, to which the kings of Great Britain and Spain are parties, liberty is *expressly* granted to the Spanish inhabitants of Florida to sell their *estates*, provided it be to his Britannick majesty's subjects, and within the space of eighteen months, to be computed from the day of the exchange of the ratifications of the said treaty.
- II. Because the term *estates* (*leurs biens*) is the most general term under which both *real* and personal property is comprehended: the liberty granted to the subjects of his Catholick majesty to sell their *estates* within the limited time to his Britannick majesty's subjects, necessarily and naturally implies a liberty to the *latter* to purchase *such estates* within *such limited time*; as a different construction would entirely defeat his Catholick majesty's subjects of that benefit which he was careful to stipulate for them by the said treaty.
- III. Because no declaration whatever was made on the part of his Britannick majesty within the said eighteen months in the said 20th article mentioned, that the words of the said article were to be construed in any limited or restrained sense whatever, or that the

crown *had or would exercise any prerogative* with respect to prescribing the mode or terms on which British subjects should be allowed to purchase lands in Florida

IV. Because from the royal instructions to governor Grant, by which he is directed not to admit of any claims on pretences of purchases, grants, or conveyances from the subjects of Spain, nor to suffer any such claims to be entered on record, *excepting such only as having been first presented to his majesty should have received his royal approbation on a proper examination of them by the crown lawyers in England*, it must be inferred, that it was understood by government, that such claims derived under titles from the Spanish subjects *might have been made*, as after such examination as aforesaid *would deserve his majesty's royal approbation, and ought to be admitted*; and such Mr. Gordon humbly insists his will appear to be.

V. Because immediately on its being signified to Mr. Gordon, at a time when *his witnesses were in Florida*, that he should *not be permitted to try his right at law there, and that he must apply to his majesty for redress*, such applications were made as are above set forth; and the memorial lately presented to the king's majesty in council ought not to be considered as setting up a dormant claim, but a continuation of the former recent applications made in consequence of governor Grant's

Grant's declarations, that such were at that time the proper mode for relief; and from the circumstances above-mentioned, the parties who conceive themselves to have been injured, have been *absolutely deprived of every other.*

- VI. Because the purchases in question were made under the sanction of a solemn treaty of peace, agreeably to the terms prescribed thereby, with the utmost good faith and notoriety, after a due examination and allowance of the titles by a competent judge, for a valuable consideration actually paid, and by conveyances duly and solemnly made and executed according to the laws and customs in force, at the time of such execution, in the country in which the contracts were made, *and the lands lay.*

F O W L E R W A L K E R.

A P P E N D I X.

A P P E N D I X.



J. M. J. St. Augustine, in the Year 1763.

A C T S A N D R E C O R D S

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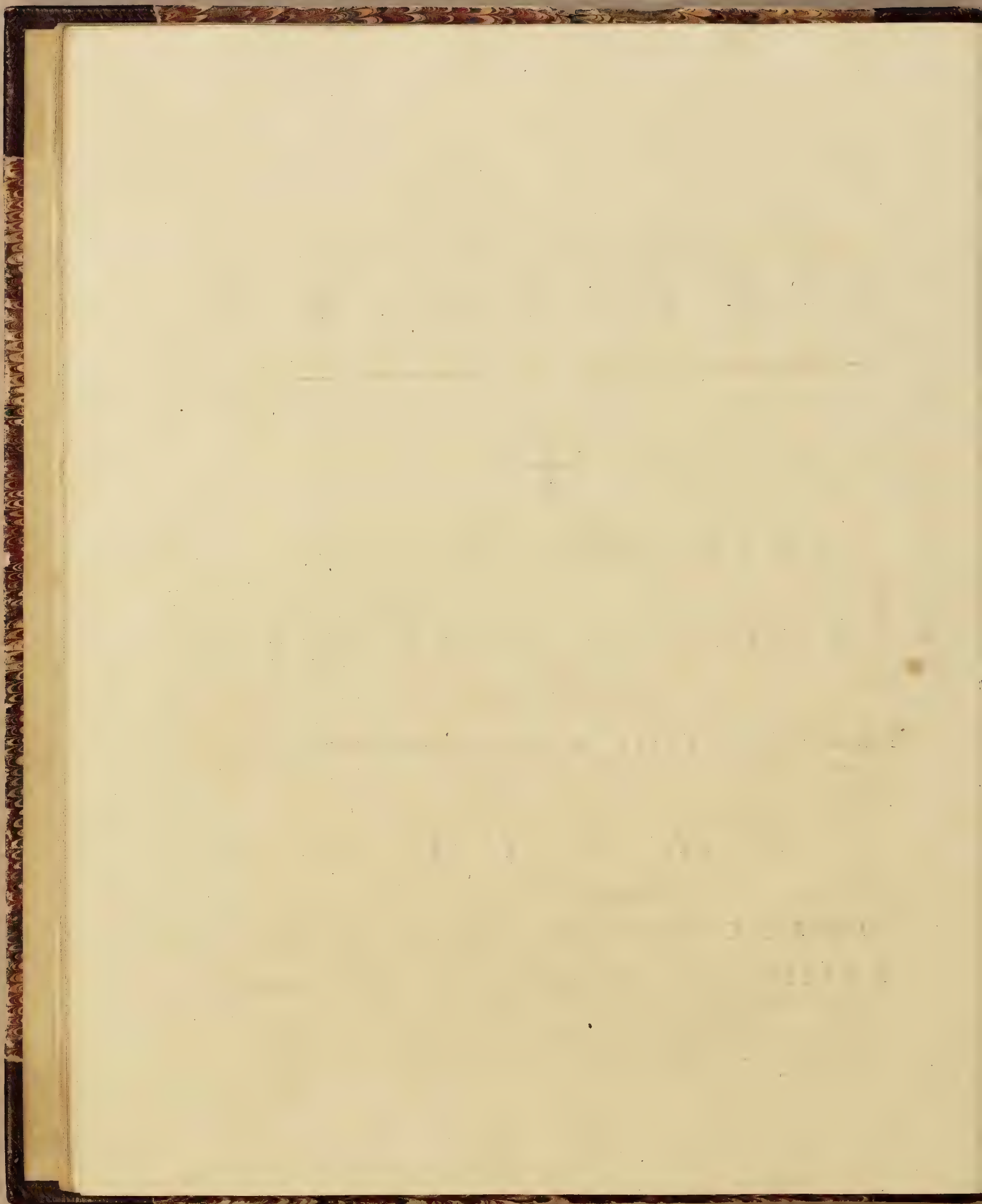
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A P P E N D I X.

Exhibit, N^o I.

I FRANCISCO CHRISOSTOMO, a native and inhabitant of this town, in order to avail myself in the most legal and solemn manner of the rights with which I am vested, do appear before your excellency, and say, That I am the proprietor of those lands which are contained from the place called *La Boca del Caño de Palica*, to the place called *El Caño de Norueste*: which said lands did belong to Juan Chrysoftomo, my grandfather; a part whereof was granted him in his majesty's name by the captain-general of this town and district in the year sixteen hundred seventy-six, at which time he paid into the royal treasury the sums that were customary, as an acknowledgment of vassalage to our lord the king; and another part he bought with his own money of various inhabitants of this town, in the years sixteen hundred fifty-six, seventy-seven, and eighty-two, who possessed those lands from time immemorial, as it appears by the deeds which my ancestors were fortunate enough to save from the great fire that the enemies set to this town in the year seventeen hundred and two, and are at this time in the public office or archive of the present royal register. And whereas it is now necessary to verify and establish in the best possible manner my title to the said lands, and the boundaries wherein they are comprehended, in order to enable myself to sell them absolutely, and to avoid all kind of hurtful and prejudicial consequences to me and my heirs, may it please your excellency

The petition of Francisco Chrysoftomo to his excellency the governor, that the evidence of his title to the lands of Palica may be received and examined.

A P P E N D I X.

lency to receive my information concerning the matters aforesaid, and the several depositions of the witnesses I have to produce, in order for them to declare whether it be of publick notoriety that the lands from the *Caño de Palica* to the *Caño del Norueste* are mine, and have been mine and my forefathers; and may likewise point out and ascertain their limits, declaring all they know concerning the premises. Your excellency will also be pleased to order that the present royal register, for the purpose aforesaid, may certify whether my title-deeds to the lands above-mentioned are legal and authentic; and also, that he may certify every clause in any will that may prove and establish my right to the property which I claim. And I therefore beseech your excellency to issue your orders according to this my petition, set forth in due form, for the purpose of ascertaining my title to the said lands, inasmuch as my request is founded in justice. And to all this I swear in the usual due form, and that I do not proceed with any unjust design, &c.

(Signed) FRANCISCO CHRISOSTOMO.

Exhibit, N^o II.

The order
made by the
governor on
the above
petition.

WHEREAS the captain Don Juan de Cotilla, engineer in ordinary of the fortress of Havanna, and now residing in this town, has been commissioned by the general royal council (*junta general*) to ascertain the titles which the inhabitants of this province have to the lands and houses, and their right to alienate them: I declare him to be invested with full power for taking the necessary informations, and in the accustomed forms, concerning the said rights and titles. Let therefore the said Don Juan de Cotilla examine, in the presence of the royal notary publick for civil and military affairs, the witnesses that the parties shall produce; and for that purpose I do hereby give him full power ultimately to decide thereon, and to declare the facts on which the said titles are founded, as well with respect to the original deeds, as the witnesses which the parties shall produce. And let the said Don Juan de Cotilla interpose his authority and judicial decree for the establishment of right; and for this purpose let the said royal notary publick give all the authentic instruments and documents which shall be required of him by the parties concerned, in order to ascertain and establish the said titles.

The

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The premises considered, his excellency Don Melchor Feliu, lieutenant-colonel of the regiment of Spain, governor and captain-general for the time being in these provinces, signed this on the twenty-eighth of September seventeen hundred and sixty-three.

(Signed) MELCHOR FELIU.

Before me

JOSEPH DE LEON,

His majesty's notary publick for civil and military affairs*.

Exhibit, N^o III.

IN Florida, September the twenty-eighth, in the year seventeen hundred and sixty-three, the preceding order (*auto*) was made known to the said captain Don Juan de Cotilla, engineer of the fortrefs of Havanna, and residing in this town, who having heard and understood the same said, that he would accept, and did accept the commission, which his excellency the governor and captain-general confers on him: and he has submitted to execute it, as he is obliged, with all loyalty and fidelity, in this as well as in all other matters of the same nature and tendency: and he signed the same; which I attest.

Don Juan de Cotilla's acceptance of the commission, and order that the petitioner should produce his evidence before him.

(Signed) JUAN DE COTILLA.

Before me

JOSEPH DE LEON,

His majesty's notary publick for civil and military affairs.

IMMEDIATELY, and on the same day, I gave notice of the above ordinance to Francisco Chrisostomo, an inhabitant of this town, and to him in person; which I attest.

JOSEPH DE LEON, &c.

St. Augustine in Florida, September the twenty-ninth, seventeen hundred and sixty-three

* Escriváno de Gobierno y Guerra.

A P P E N D I X.

IN conformity to the commission conferred by his excellency the governor and captain-general of these provinces, to his order (*auto*) bearing date yesterday, which is hereunto annexed, and in order to verify the information which the party offers, as is mentioned in his petition, which is also hereunto annexed; let the said royal notary give due notice, that within the two following days the party produce his witnesses for taking the said information, and let him bring all his evidence and certificates, and all other instruments whatsoever, and deliver the same to the aforesaid royal notary publick, in order that the same may be properly authenticated.

JUAN DE COTILLA.

THE premises being considered, captain Don Juan de Cotilla, engineer of the royal armies, and judge-commissioned for ascertaining all rights and titles of the inhabitants of these provinces, signed it in September twenty-ninth, seventeen hundred and sixty-three, which I attest.

JOSEPH DE LEON,

His majesty's notary publick for civil and military affairs.

IMMEDIATELY, and on the same day, I gave notice of the above order to Francisco Chrifostomo, an inhabitant of this town, and to him in person; which I attest.

JOSEPH DE LEON, &c.

Exhibit, N^o IV.

The deposition of Antonio Joseph Rodrigues y Quiros.

IN this town of St. Augustine in Florida, October the first, seventeen hundred and sixty-three, and in favour of Francisco Chrifostomo, a native and inhabitant of this town, according to the information required of me by captain Don Juan de Cotilla, engineer in the royal armies, now residing in this town, judge-commissioned to ascertain the titles and rights to lands of these inhabitants: I Antonio Joseph Rodrigues y Quiros, likewise a native and inhabitant

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tant of the said town, *under my oath by Almighty God*, taken before his majesty's notary publick for civil and military affairs, and after having crossed myself like a christian, protesting to tell nothing but the truth; and being questioned according to the tenor of the said petition of the said Francisco Chisostomo hereunto annexed, I say, under the obligation of the said oath, that it is certain, true, and of publick notoriety, that among the several estates possessed by the inhabitants of this province, *I have a perfect knowledge of that belonging to Francisco Chisostomo, where I have been many times*; and that the said estate consists of the lands which are contained from the *Boca del Caño de Palica*, situated four leagues to the south of this town, to the *Boca del Caño de Norueste*, of about three leagues in extent to the west; *on which lands the deceased Juan Chisostomo, grandfather to the petitioner, fed and reared up both cattle and sheep*. And I also attest, that the said Juan Chisostomo had bought with his own money a great part of the said lands of the inhabitants of this town, who possessed them from time immemorial; and that of some part of them he had a grant made him by the governor and captain-general that was at that time in this town and province, in consequence of the power that he had of granting lands in the name of his majesty the king, to whom the said Juan Chisostomo had paid the acknowledgment of vassalage, as it was then usual and customary: and that, as to the extent and boundaries of the said lands, *this deponent knows and is certain as above*, that the said estate was three leagues in extent towards the west from the *Boca del Caño de Palica* extending to this side, which is that of the north of the country, to the pasture and arable lands belonging to other inhabitants of this town; and also to the *Boca del Caño del Norueste*, three leagues more to the west towards this side, which is that of the south of this town, close to the estate and habitations belonging to Don Juan Benedict Horrutiner: and that the boundary and extent on the side of the west went close to the lands of *Sn. Onofre y Pirigirigua*, belonging to Don Antony de Arguelles and his son Don Diego.

This is what I know and can declare concerning the premises; *and it is the truth, as by the oath I have taken*; and this I affirm and ratify, that it is
the

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the truth: *and I am eighty-one years old*, and sign it together with the said judge-commissioned, and attest it.

(Signed) JUAN DE COTILLA.
ANTONY JOSEPH RODRIGUES Y QUIROS.

Before me

JOSEPH DE LEON,
His majesty's notary publick for civil and military affairs.

Exhibit, N^o V.

The deposition of Don Ildefonso Sanchez.

IMMEDIATELY on the same day (according to the petition that Francisco Chrifostomo has presented, and was received) before me, captain and judge-commissioned, the lieutenant of cavalry Don Ildefonso Sanchez offered himself as a witness; *and I received the oath which he took by Almighty God*, and saw the sign of the cross which he made, by which he promised to speak truth.

And having questioned him according to the tenor of the petition hereunto annexed, he says, *that he knows and is certain*, and has also always heard it as a publick and notorious thing, that the lands which run from the *Caño de Pálica* to the *Boca del Caño del Norueste*, do in property belong to Francisco Chrifostomo, *who inherited them of his ancestors*, who possessed the said lands as they had bought the greater part of them of the owners that cultivated them from time immemorial: and the remainder of them they possessed by virtue of a grant from the governors and captain-generals, paying for them the acknowledgement of vassalage to our lord the king, in whose name *they were put in possession*, and had the lawful property of them, according to the use and custom, ever since the conquest of this continent.

And as to the limits and boundaries of the same lands, *the deponent knows for certain, having been many times on the said estate*, and seen the pasture and arable lands thereof, at the time that he was young, and likewise after,

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after, as his employment brought him to cross all the said estate, and to go there with some detachments of troops in order to protect the king's workmen who went to fell timber on the hills : so that he is certain that the boundaries of the said estate, on the side of the east, is the bank of the stream that runs from this town through the district called *de Matanzas* towards the south ; and that it is contained and comprehended from the stream called *El Caño de Palica*, which is four leagues to the south of this town, to the *Caño del Norueste*, which is computed to be nine leagues (little more or less) distant from this town. And the said lands run on an extent of three leagues likewise to the west from the said *Caño de Palica* extending to the north, and bordering upon the *arable lands* of many inhabitants of this town, as well as from the *Boca del Cano del Norueste* bordering to the south with the estate called *Los Corrales*, which belongs to the heirs of Don Juan Benedict Horrutiner. And the boundary on the side of the west is the lands of the estate called *Sn. Onofre* and *Pirigirigua*, which belongs to the heirs of Don Antonio and Don Diego de Arguelles. And the said deponent likewise knows for certain, that Francisco Chrifostomo, the petitioner, is the lawful son of Juan Chrifostomo, and grandson of another Juan Chrifostomo, *who was the first that settled and stocked with cattle the estate in question, as it is of publick notoriety in this town and province.* Which is all that the deponent knows and can declare upon his oath by Almighty God to be the truth about the premises.

And he, the deponent, is now four-and-fifty years old, and has signed this, together with the judge-commissioned ; which I attest.

JUAN DE COTILLA,
ILDEFONSO SANCHEZ.

Before me

JOSEPH DE LEON,

His majesty's notary publick for civil and military affairs.

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Exhibit,

A P P E N D I X.

Exhibit, N^o VI.

The depofition of Don Philip Horruter.

IMMEDIATELY on the next day (in confequence of the petition, which the faid Francisco Chriſtoſtomo has prefented and was received) in the prefence of the captain and judge-commiſſioned, Don Philip Horruter, a native and inhabitant of this town, prefented himſelf as a witneſs before me, the king's notary publick for civil and military affairs: and the faid Don Philip took his oath by Almighty God, and croſſed himſelf, under the obligation of which he promiſed to declare the truth.

And being queſtioned according to the tenor of the faid petition hereunto annexed, he ſaid that *he knows for certain*, and has likewise heard it as a thing of *publick notoriety*, that the lands from the *Boca del Caño de Palica*, down to the *Caño del Norueſte*, are the property of Francisco Chriſtoſtomo, who inherited them on the demife of his father Juan Chriſtoſtomo, who became poſſeſſed of them on the death of *his father* Juan Chriſtoſtomo, who was the perſon that bought the beſt part of thoſe lands of ſeveral inhabitants of this town and province; and another part was granted him by the then governors on his paying to the king the due acknowledgement of vaſſalage; by virtue whereof, in his majeſty's name, he obtained the property, *and was put in poſſeſſion of them*; wherefore they all progreſſively fed and reared up cattle of various kinds on the eſtate aforeſaid.

Which things the deponent ſaw when he was yet very young: and as to the extent and limits of thoſe lands, he has had frequent opportunities whereby he is enabled to aſcertain them, as he often went with ſome horſe troops of this town and province over them; and he knows it for certain, that they are three leagues in extent from the *Boca del Caño del Norueſte* to the other *Boca del Caño*, called *De Palica*; and that they border to the north with the paſtures and other lands of the eſtates called *Los Corrales*, which belong to the heirs of Don Juan Benediſt Horruter, and to the weſt with the eſtate called *Sn. Onofre* and *Pirigirigua*, which belong to the heirs of Don Antony and Don Diego Arguelles.

This

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This is what the said deponent has to say about this matter, and upon the oath that he has taken, which he confirms and ratifies.

And he the said deponent is eight-and-fifty years old, and has signed this, together with the said captain and judge-commissioned; which I attest.

(Signed) JUAN DE COTILLA,
PHILIP BENEDICT HORRUTINER.

Before me
JOSEPH DE LEON,
His majesty's publick notary for civil and military affairs.

Exhibit, N^o VII.

LET all who shall see this publick deed and instrument of actual sale know, that I Juan de Peñalosa, a soldier in this town of St. Augustine in Florida, do really and effectually grant and sell to Juan Chrisostomo, my cousin, an inhabitant of this town, for himself, *his heirs* and successors, a piece of land which I have, *on which Indian Corn* is sown, in the district of St. Nicholas, together with the land that belongs to it, and with all the usages, customs, appurtenances, and servitudes thereto annexed; the boundaries whereof on the south side reach the *pastures* of the heirs of Francisco de la Cruz, *now dead*, and on the north side reach *Chaparral* and the hill called *de la Urcá*, and on the west side reach the arable lands and tenements of their excellencies the governors: which lands of mine I have inherited of my lawful mother, now dead, who had herself inherited them of Antonio Martin her father, and my grandfather. Such lands I sell free from all mortgage, tribute, and from all other duty, engagement, and burthen, for I declare they have none: and I sell them for the price of an hundred reals of silver of thirty-four maravedis each, which sum I have received of the said Juan Chrisostomo in so many effective reals, that are now in my possession. Therefore, should no proof hereafter appear of the actual payment of this money, I hereby renounce the laws called *del Recibo, de non numerata Pecunia, Exercicio del Dolo* and all the others of like purport, according to their respective tenor; and I therefore declare, that the

A deed of exchange of lands made between Juan de Penaloso and Juan Chrisostomo, dated St. Augustine, 1st September 1656.

A P P E N D I X.

ſaid piece of land, with all that belongs to it, is not worth more than the ſaid ſum of money; and in caſe it was worth more, be it what it will, I make a free gift and donation of that ſurplus to the buyer, together with all the deeds, inſtruments, and covenants that may be neceſſary to eſtabliſh his title; and I give up to him all my rights whatſoever to that my inheritance, tenement, property, and dominion, and all other claim real and perſonal that I ever had or have with reſpect to that inheritance; and yield it all, and give up, and transfer the ſame to the ſaid buyer, *and to all that ſhall derive title from him*; and I give him the power and right, that he, by his own authority or judicially, may take poſſeſſion as aforeſaid.

And as a ſign and token of all that is ſaid, I deliver unto him this preſent writing, *by which his acquisition may be rendered undoubtful, without any other title*; acquitting him of any further obligation: and as a real and actual grantor, and in the beſt manner that I may or can, I bind myſelf to evince the validity of this my ſale, and the ſecurity and authenticity of this preſent deed of ſale in the beſt form; to the end, that neither it, nor any part of it, may ever be called in queſtion, nor any hindrance laid in the way of the execution of it. And in caſe this ſhould happen, I engage to appear on the fifth day after notice given me of it, and at my own expence, to ſupport and defend the ſaid buyer before any magiſtrate whatſoever, until I may ſee him in quiet and peaceable poſſeſſion of it, free from all charges of proſecution. And in defect thereof, I will make him reſtitution of the ſaid ſum of one hundred reals, together with the coſts, intereſts, damages, and detriments that he ſhall ſuffer on this account.

To the fulfilling of all which I bind over my perſon, together with all that I have, or may hereafter have: and I give power to all his majeſty's judges and magiſtrates throughout all his majeſty's countries and jurisdictions, to all and each of whom I ſubmit myſelf, to compel and force me to fulfil all that is above-mentioned; and I give up my right of domicil and every other to the ſaid piece of land and its appurtenances, renouncing the law *ſi convenerit de jurisdictione omnium judicum*, and the law intitled *ultima pragmatica de las ſubmiſſiones*; and in order that I may be obliged thereto as effectually as if it were by a definitive ſentence

A P P E N D I X.

sentence of a competent judge by due authority passed in a cause adjudged by him, I also renounce all other claims, rights, and benefits to which I might otherwise be entitled.

And I, the said Juan Chrisostomo, who am here in person, have accepted and do accept of this writing in my favour, and receive the said piece of land, for which I have paid the above-mentioned hundred reals; and thereupon do declare myself to be perfectly satisfied to my full will, and hereby renounce the laws entitled *Del Entrégo*, *Excepción-del Dolo*, and all other that may be relative to this transaction.

In witness whereof both parties fully agree, as to all that concerns them; and this is done in the town of St. Augustine in Florida, on the first of September, sixteen hundred and fifty-six.

And I, the notary publick, attest, that I know both the parties, and that the said Juan Chrisostomo has signed this agreement; and for the said Juan de Peñalosa, and at his desire, it was signed by the ensign Andrez de Sotomayor, who was a witness to this transaction and deed, together with the corporal Augustin Monzon, and Manuel Rodriguez de Torres.

At the desire of Juan de Peñalosa, and
as a witness Andrez de Sotomayor.

JUAN CHRISOSTOMO.

Before me

JUAN MOREÑO Y SEGOVIA,

Notary publick for this government.

THE above copy agrees with its original as it was transacted before me; which original remains in my power and custody in the publick register of the writings and agreements made and transacted within this present year, whereto I refer. And to the end that the parties may avail themselves of their agreement,

The registers
certificate of
the authen-
ticity of the
above deed.

A P P E N D I X.

I give this present copy subscribed and signed in the town of St. Augustine in Florida, on the sixth of September, sixteen hundred and fifty-six. And I sign it in token of the truth.

JUAN MORENO y SEGOVIA,
Notary publick for this government.

Exhibit, N^o VIII.

A deed of sale of a piece of land in the district of Palica, from captain Lorenzo Joseph de Leon to Juan Chri-
sofomo,
dated St. Au-
gustine, 29th
April 1676.

LET all those who may and shall see this writing know, that I, captain Lorenzo Joseph de Leon, as steward (*Mayordomo*) of his holiness the pope, and advocate-general (*Sindico general*) of the convent of St. Francis of this town and province of St. Helen, and of the clergy that assist in carrying on the conversion of the natives thereof, and by virtue of the powers wherewith I am invested, relative to the affairs of the said province, in consequence of a congregation held by the reverend father provincial, and the fathers definitors of the said convent, on the twenty-fifth of this present month, in which they determined, that, according to the rules and statutes of their order, they cannot hold and be possessed of any property: and in the said congregation they have agreed to sell a piece of land, which had been given by way of an alms to the said convent, which piece of land is situated in the district called *Palica*, bounded on one side by another piece of land belonging to captain Nicholas de Carminatis: and whereas the said piece of land is of no advantage nor profit to the said convent: therefore, by virtue of the said power wherewith I am invested, and as advocate-general to the said convent, being well aware and fully informed of what is proper to do in this case, I give up, and really and effectually sell to Juan Chriofomo, a native of this town, for himself, *his heirs and successors, and for all that shall have and derive any right or title from him*, the piece of land above-said, that belongs to the said convent, for the price of sixty dollars (*Pesos de Plata*) which he, the said Juan Chriofomo, has given and paid me for the said piece of land in so many effective reals; so that I call myself fully satisfied and paid in the name of the said convent: whereupon I renounce the laws entitled *De la Entrégo, Pruéva del Recibo*, and all other laws whatsoever. And I further declare, that the said piece of land, and its appurtenances, are free, and not mortgaged in any-wise, nor bound to any tribute,

A P P E N D I X.

bute, nor to any other particular or general charge or duty : which piece of land is to be enjoyed by the said Juan Chriſtoſtomo, his heirs and ſucceſſors, from this day forwards for ever, with all its incomes and yieldings, rights, actions, uſages, customs, and ſervitudes whatſoever ; becauſe all that is there belongs at preſent by all means to him. And I further declare, that the ſaid fixty dollars are the juſt price and value of the ſaid piece of land, and that the ſaid is not worth more : and in caſe it was, or were to be, in the name of the ſaid convent I make him a free gift and irrevocable donation of any ſuch ſurplus whatſoever, and donation *inter vivos*, as it is called in law, from this moment for ever, and with all the authenticities and renunciations thereto required. And I re-nounce the right called *De la Inſinuación*, and the laws entitled *Del Engaño Mayor y Menór, y Norme y Normiſſimo* ; and to the law and rule of the ordinance made by the king in the *Córtes* of Alcála de Henares, and to all other laws and rules that may be relative to this point.

And from this day, in which this writing is dated, be it known, that I deprive the ſaid convent of the ſaid piece of land and its appurtenances, and of the rights and titles that the ſaid convent has on the ſame : and I deliver it up to the ſaid Juan Chriſtoſtomo, that it may belong to him and be his property ; ſo that he may ſell the premiſes, or exchange, or alienate and diſpoſe of them at his own will, as a thing that is his own, bought with his own money, and acquired and held by a juſt and right title, and in good faith.

And I give him a full power to take and hold the poſſeſſion of the ſaid piece of land and appurtenances thereto belonging ; in token whereof I deliver him this writing of publick ſale, *that in virtue thereof, or a copy of it, he may hold and poſſeſs the ſaid premiſes without any further act of poſſeſſion.*

And by the preſent inſtrument and deed, I bind the goods of my ſaid party towards the ſecurity of this preſent abſolute ſale of the ſaid piece of land and its appurtenances, againſt any perſon or perſons that might claim them of him in any manner whatſoever. And I engage to take upon myſelf the part and defence of this his right, in caſe it ſhall be controverted, on the third day after his giving me notice of it, until I ſee him ſettled in the quiet and peaceable poſſeſſion

A P P E N D I X.

possession thereof: and should I not do this, I promise to make him restitution of the sixty dollars aforefaid, and in the same manner that he gave and paid them me; and also submitting myself to pay for all expences, costs, damages, and detriments that he might incur on account of the premises.

And I, the said Juan Chrifostomo, who am perfectly apprized of all that is contained in this writing, do hereby declare that I accept of it, according to its contents. And both parties (each for himself) give full power to any judge or magistrate to keep them to the letter of it, as if it were a definitive sentence passed on a thing perfectly decided; and we both renounce, as above-mentioned, all laws and statutes, general or particular, that may be in our respective favour.

In witness whereof we sign and subscribe this, and in the presence of the publick notary and witnesses: and this writing was made in the town of St. Augustine in Florida, on the twenty-ninth of April, sixteen hundred and seventy-six. And I the notary publick do attest, that I know the parties, and that they signed this: and the witnesses were the captains Antony de Arguelles and Alonzo Diaz Mexia, and the adjutant Diego Jacinto.

LORENZO JOSEPH ^{DE} LEON.
JUAN CHRISOSTOMO.

Before me

ALONZO SOLANA,
Notary publick for this government.

The register's
certificate of
the authen-
ticity of the
above deed. **T**HE above copy agrees with its original, which was made before me, and remains with me; whereto I refer. And at the request of Juan Chrifostomo I give this present copy this day of the agreement. And in token of the truth thereof I sign it.

ALONZO SOLANA,
Notary publick for this government.

Exhibit,

A P P E N D I X.

Exhibit, N^o IX.

I JUAN CHRISOSTOMO, a native of this town, do appear before your excellency in the best form that becomes my right, and say, that I am provided with a herd of cattle, and that I intend to stock a farm with the same; and because in the district called *Palica*, on the south side of the *Caño*, the land is proper for such purpose: and whereas there were several pieces of *arable land* in that district, which formerly belonged to several persons, and are now mine, I humbly desire, in order to establish the said farm, that the king may grant me a right of possession of the pine-woods and hills in the environs, which will not prove prejudicial to any third person, nor to any of the natives of this province; and this will turn to the good and advantage of this colony. Wherefore, I beseech your excellency, in consideration of the premises, to make me, in his majesty's name, the grant thereof, in the same manner grants have been made to other persons who have established farms in this province, fixing me a sufficient time for my settling my cattle in the said district, and giving me a title in good form to that purpose; for which I shall be justly thankful.

The petition
of Juan
Chrisostomo
for a royal
grant of cer-
tain lands in
the district of
Palica.

JUAN CHRISOSTOMO.

HIS excellency Don Pablo de Yta y Zalazar, governor and captain-general of this town of St. Augustine in Florida and its provinces, has received the aforesaid petition, which has been registered this day, May the nineteenth, sixteen hundred and seventy-six; which I attest.

Theregister's
certificate of
the authenti-
city of the
above deed.

ALONZO SOLANA,
Notary publick for this government.

A P P E N D I X.

Exhibit, N^o X.

A grant by his excellency the governor of the lands mentioned in the foregoing petition.

IN the town of St. Augustine in Florida, May the nineteenth, sixteen hundred and seventy-six, his excellency Don Pablo de Yta y Zalazar, governor and captain-general of this town and its provinces in the name of our lord the king, having seen the petition presented in behalf of Juan Chrifostomo, an inhabitant of this town, and made acquainted with the desire he has that the lands he requires may be granted to him, in order for him to establish and stock a farm with cattle in the district called *Palica*; and whereas an encrease of cattle in the neighbourhood of this town will prove advantageous and beneficial to this colony, and afford ready provisions in case of necessity to this town, which is a thing to be attended to; therefore, and the premises well considered, his excellency, in his majesty's name, and by virtue of the faculty and power invested in him, has granted and does grant to the said Juan Chrifostomo the permission he asks for; which is, that he may feed and rear up the cattle that he actually has, and shall henceforwards have, and settle and establish the farm that he intends to have in the district he petitions for, within a circumference of three leagues, on condition that he do not occupy any part of the same district to the hurt and prejudice of any third person, nor of any of the original natives of these provinces, who may happen to have a better title and right. And I, from this day forward, do give him leave, and grant and consent that he do form and establish the said farm, in order that he may feed and rear up the said cattle for himself *and for his heirs and successors, and others that may have title and right from him*; so that no body may hinder him, or claim the said lands from him, or give him any kind of impediment, setting down his boundaries all round the same.

And for all the purposes aforesaid, his majesty grants him a sufficient and full power: and as a title and right to this grant, in his majesty's name, and by virtue of his royal powers, his excellency orders, that such declaration or declarations be given him, as he, the said Juan Chrifostomo, shall think necessary to the assurance of his right: in which, and in this original writing, his majesty interposed and does interpose his authority and judicial decree. And this his excellency

A P P E N D I X.

excellency has approved of, and ordered, and signed; which I, the publick notary, do attest.

DON PABLO DE YTA Y ZALAZAR.

Before me

ALONZO SOLANA,

Notary publick for this government.

THE above copy agrees with its original, which remains in my power and office, whereto I refer. And that it may be known, at the request of the party, I give this present copy in St. Augustine in Florida, May the nineteenth, sixteen hundred and seventy-six. In faith whereof I sign it, as a voucher of the truth.

Theregister's
certificate of
the authenti-
city of the
foregoing
deed.

ALONZO SOLANA,

Notary publick for this government.

Exhibit, N^o XI.

LET all those who shall see this writing know, that I captain Francisco de la Rocha, treasurer and commissary of this town of St. Augustine in Florida, as one party, and I Juan Chrifostomo, an inhabitant of this town, as the other party, that we, of our own accord and good will, agree to truck, exchange, and permute a piece of *Indian corn land*, which I the said captain Francisco de la Rocha am possessed of (which same piece of land is situated to the south of this town, in the district they call *Monte Largo*, and stands single, without having any other sown with Indian corn near it) for another piece of Indian corn land, which I the said Juan Chrifostomo have and am in possession of, situated in the district called the *Caño Tondo*; which piece of land is bounded on the west side by the lands belonging to the heirs of the adjutant Isidore Reynoso, deceased. And the said pieces of land we, both the contracting parties, possess by virtue of our having *tilled and cultivated them at our own expence*, in consequence of the *grants* made us by their excellencies the governors for the time being of these provinces.

A deed of
exchange of
lands made
between Don
Francisco de
la Rocha and
Juan Chri-
stomo.

A P P E N D I X.

And that the said exchange may have and take effect, we are come to make this writing in the form that is here declared : and of our own unanimous accord and good will, being both well informed and certain of our respective rights, and of what in this case it becomes us to do, and having made our agreement, and taken our deliberation about it, as it seemed fit to each of us, I the said captain Francisco de la Rocha, own and acknowledge that I do sell to the said Juan Chrifostomo, and give him as an exchange, truck, and permutation to the purpose aforesaid, and for his heirs, successors, and other persons that may and shall have right and title from him in any manner whatsoever, the piece of *Indian corn land* aforesaid ; and I the said Juan Chrifostomo do sell to the said captain Francisco de la Rocha, his heirs, successors, and other persons that may and shall have right and title from him in any manner, the said piece of Indian corn land that I have as above said. And each of us declare, that each of the said respective pieces of land are free, and not bound to any mortgage, tribute, duty, engagement, and burthen by any previous contract, either publick or private : and this we will assure and make good upon any occasion with our own persons and goods. Of which said pieces of Indian corn land, exchanged and permuted as aforesaid, each of us respectively, and our respective heirs, successors, and persons whatsoever who shall have right and title from us, are to enjoy from this day of the date of this writing forwards for ever, and of the produce and income of them, and of all other rights, usages, customs, and servitudes therefrom deriving in any manner whatsoever : which truck, exchange, and permutation, we, both the parties aforesaid, declare, that we have made it in all equality and parity of value ; and that what we reciprocally give and receive, is not of more value than that which is thus reciprocally given and received in the said truck, exchange, and permutation ; and if it should happen, that now or henceforwards the one is or hereafter may become of more value than the other, we give and respectively make an irrevocable donation of that surplus to each other, after the manner that is called *donatio inter vivos*, from this day for ever and ever ; both renouncing the laws and statutes intituled *de la Insinuacion, del Engaño Mayór y Menór, y Nerme y Normissimo*, and to the ordinance made by the king in the *Córtes of Alcála de Hanares*, and to all other laws, statutes, and rules that may be relative to this point : and from this day of the date of this writing forwards and for ever

each

A P P E N D I X.

each of us agree and declare, that we dispossess ourselves, and desist, give up, and release from our possession the pieces of land aforesaid, and all the power and dominion that we have on each respective piece; and we alienate them to each other, and each of us puts the other in possession of what was hitherto his own, *by means of this truck, exchange, and permutation*; so that each may enjoy that which he receives, or at his will and pleasure sell, give, exchange, or alienate and dispose of it as a thing belonging to him by right and wholly his own, had, held, and acquired by a just and lawful title and right, as the present is. And we give and confer to each other the full and sufficient power, *that each of us may take possession* and hold of the other's aforesaid piece of land in his own person and lawfully, and in the manner and form that he shall think fit; and we ourselves constitute each other owner and possessor of each other's pieces of land aforesaid; and we both bind ourselves each to appear in behalf of the other in case either of the said pieces of land shall be demanded or laid claim to by a third person: as a token and voucher whereof, we deliver to each other a copy of this present writing, *that, in virtue thereof, the possession be given us in the manner aforesaid, without having recourse to any ulterior act, instrument, or deed*: and by these presents we bind each other to the guaranty and security of all that is herein contained in form of right, and to give up to each other the pieces of land which herewith we have trucked, exchanged, and permuted, free and disencumbered of all claims and rights of any third person or persons, so that none may demand or sequester them on any cause or reason whatsoever; and we bind ourselves respectively to stand by each other's right in case of any litigation that shall or may be attempted against either of us on this account; and within three days after being respectively called upon by the other, to appear in our own persons: and from that day each of us binds himself over to the other to make good his right at his own expence in such a suit, if there shall be any, until he see him put in full possession of the piece of land that he receives from the other by virtue of this present truck, exchange, and permutation as aforesaid, so that he may enjoy it freely, and without hindrance or molestation from any body: and if either of us should not do and accomplish this, we both bind each respectively to return and pay the price of each of the aforesaid pieces of land to the other, according to the value that each of them shall be appraised at, making good to
the

A P P E N D I X.

the party all loss, hurt, damage, and detriment that he may suffer and receive on that account, and all in ready money, to be paid in this town, and as soon as such loss, hurt, damage, or detriment shall be made plain and made manifest: to which effect we confer upon each other respectively the power of seizure of our respective goods by virtue of this writing, and on the oath that each of us shall take, or any person having title and power from us; and that oath shall be considered as a proof and verification of what is herein contained, without having recourse to any other, though any other might belong to us of right: towards the accomplishment and payment whereof we both bind our persons and goods possessed, or to be possessed; and we empower any magistrate whatsoever, before whom this writing may appear, to compel us to its accomplishment to the utmost rigour of right and executive force, as if this writing were a definitive sentence legally passed in an adjudged cause; wherefore we both renounce all laws and statutes that might operate in our favour, and particularly that entitled *La General Renunciación*; and we consent that of this writing any copy may be taken without any previous order of any judge, or summons from any person. And this is done in St. Augustine in Florida, on the thirtieth of May, sixteen hundred and seventy-six; and the parties, whom I the publick notary personally know, have signed this: present as witnesses, Sebastian Grozo, Nicolas Garcia, and Diego Solana.

FRANCISCO DE LA ROCHA.
JUAN CHRISOSTOMO.

Before me
ALONZO SOLANO,
Notary publick for this government.

The register's
certificate of
the authenti-
city of the
above deed.

THE above copy agrees with its original, as it was transacted before me, and all is true and authentic: and that it may be of publick notoriety, I do give this copy this day of the transaction. In token whereof I here sign and attest the truth of it.

ALONZO SOLANO,
Notary publick for this government.

Exhibit,

A P P E N D I X.

Exhibit, N^o XII.

LET all who shall see this publick writing know, that I Francisco Gonzales, a reformed captain in this garrison of St. Augustine in Florida, do really and effectually grant and sell to Juan Chrifostomo, an inhabitant of this town, a piece of *Indian corn land*, which I hold and possess as my own, in the district called Sabanilla, whereon the quantity of five or six arrobas may be sown: which said piece of land I sell to the above-named Juan Chrifostomo, his *heirs, successors, and whoever shall have title and right from him in any manner whatsoever*, for the value and consideration of fifty dollars (*Pésos de Plata*) which he has given me for the same, and paid me in so many effective reals, so that I declare myself perfectly satisfied and paid according to my desire; on which account I renounce all benefit from the law entitled *De la Entrego*, and all other whatsoever that may favour me in this case, and disclaim them as far as they may regard this my deed: and I further declare, that the said piece of land and its appurtenances are free and disencumbered of all mortgage, *and that I tilled and cultivated them* by virtue of the grant made me by the governor Don Alonzo de Aranguiz y Cotés, when he was governor of these provinces, in his majesty's name: which piece of land shall be enjoyed by the aforesaid Juan Chrifostomo, his heirs and successors, from this day forwards *for ever*, with all its income and produce, rights, prerogatives, usages, customs, and servitudes that the same has at this present time, and lawfully belong to the same, in any manner whatsoever: and I declare that the aforesaid fifty dollars, for which I sell the said piece of land, are the just price and value of the same, and that it is not worth more; and if it is worth more, I give that surplus, be it what it will, and make an irrevocable donation of it, by the right that is called *donatio inter vivos*, from this day forwards for ever, to the said Juan Chrifostomo, under all and every necessary clause and declaration. And from this day of the date of this writing forwards for ever, I own and acknowledge, that I dispossess myself of the said piece of land and its appurtenances, and of all and every right that I have to the same, and give them over to the said Juan Chrifostomo, that the same be his own as a thing bought with his own money, and held and acquired by a just and legal title, as this is: and I give him full power to take possession

A deed of sale from Don Francisco Gonzales de Villa Garcia of a tract of corn land situate within the limits mentioned in the petition.

A P P E N D I X.

of the same piece of land and its appurtenances in the form and manner that he shall think best: and in token whereof I deliver him this publick writing of sale, *to the end that by virtue thereof he may take, hold, and get possession of the same without any further act.* And I bind myself to the security of this sale in the due form of law, and to my standing forth against any person or persons whatsoever that may or shall ask and demand the same of him, and so to do at my own charge and expence after the third day that I shall be summoned by him for that purpose, until I see him in the quiet and peaceable possession of the same. And in default thereof I oblige and bind myself to make him restitution of the said fifty dollars in the same manner that he has given them me, and re-imburse him of all costs, expences, damages, and detriment that he shall receive upon this account.

And I the said Juan Chrisostomo, who am perfectly informed of the contents of this present writing, declare that I do accept the same, being perfectly satisfied with the contents thereof: and both parties, for whatever may regard each other, give respectively full power to any magistrate and judge throughout his majesty's dominions and jurisdictions, to take cognizance of this our instrument and deed, and to compel each of us to the accomplishment of all that is therein agreed, and as if the same were a definitive sentence passed upon a thing already decided and adjudged; both of us respectively renouncing every law, statute, and ordinance that might favour us to the contrary.

In token whereof, and with mutual consent, both parties have signed their names to this writing; and I the notary publick personally know them both. This is made in this town of St. Augustine in Florida, January the fourth, sixteen hundred and seventy-seven; and the witnesses are, Sebastian Grozo, Nicolas Garcia de Tovar, and Diego Solana.

FRANCISCO GONZALES DE VILLA GARCIA.
JUAN CHRISOSTOMO.

Before me
ALONZO SOLANA,
Notary publick for this government.

The

A P P E N D I X.

THE above copy agrees with the original, which remains in my power and office, whereto I refer. And that it may be of publick notoriety, at the desire of the parties, I give this present copy on January the fifth of the said year. As a token whereof I sign it as containing the truth.

The register's
certificate of
the authen-
ticity of the
above deed.

ALONZO SOLANA,
Notary publick for this government.

Exhibit, N^o XIII.

I JUAN CHRISOSTOMO, an inhabitant of this town, do appear before your excellency in the best form that may become me, and say, That in the year sixteen hundred and sixty-six I bought four pieces of land within the small districts of Palica, Monte Largo, and Sabanilla, which cost me above two hundred dollars, which I paid and gave to the owners and possessors of them, *and cultivated them*; and I did so, with a view to settle and establish a farm, and stock it with cattle, *as I have at last effected and done*: and whereas there hath been a grant made to me of the royal domains and lands which surround the said pieces of land, which extend two leagues and a half in length, bounded on the north side by the estate called St. Nicolas, to the eastward and westward and on the south side by the lands called *Los Corrales*; in which space of two leagues and a half are comprized the pieces of land that I have bought.

The petition
of Juan Chri-
stomo, that
an abatement
may be made
in the fine set
in his grant
of crown
lands.

And whereas, by an ordinance of your excellency, and of the royal judges in office, it has been ordered me to pay fifty dollars for every league of those that have been granted me, in compliance with that order I did pay and make satisfaction as to the greater part of the said lands which I am possessed of, and a free grant is only made me of the neighbouring pine-woods. But, as within the space of the said two leagues and a half, wherein there are the pieces of land that I bought, there is some ground that cannot be cultivated, so that it yields no kind of profit; this is a reason that induces me to beseech your excellency, in consideration of the good which I have done by my undertaking to settle and establish the said farm, which was a thing of the utmost consequence to this town and colony, that the said fine so assessed may be lessened, moderated, and reduced to what your excellency shall please to think more just

d

and

A P P E N D I X.

and equitable, as the facts above stated are of publick notoriety amongst the inhabitants of this town, and may easily be proved. I therefore beseech and petition your excellency to lessen the sum that I have been ordered to pay, and direct that a title-deed may be delivered me in the usual form, as I ask but what is just.

JUAN CHRISOSTOMO.

Exhibit, N^o XIV.

Reference
of the fore-
going peti-
tion to the
officers of the
revenue.

A COPY of the above petition was presented and delivered to the royal judges in office, as by the voucher hereunto annexed.

In consequence of the directions given by his excellency Don Pablo de Yta y Zalazar, governor and captain-general of this town and provinces of Florida, I gave a copy of the annexed petition to the royal judges in office: which I attest, November the third, sixteen hundred and seventy-seven.

ALONZO SOLANA,
Notary publick for this government.

Exhibit, N^o XV.

The re-
port made
thereon.

WE the judges in office of the royal domain in these provinces of Florida, say, That by virtue of the publick notoriety pleaded by the petitioner, as to his having bought the lands which he has turned into a farm stocked with cattle, and that only a grant is made him of the neighbouring lands, as without them it would not have been possible to settle and establish the said farm; we are of opinion, that, in consideration thereof, the fine laid on him may be lessened so far as your excellency may think fit and proper. Done in St. Augustine in Florida, November the sixth, sixteen hundred seventy-seven.

Don ANTONIO MENENDEZ MARQUEZ.
FRANCISCO DE LA ROCHA.

A P P E N D I X.

Exhibit, N^o XVI.

ON the aforefaid day, November the fixth of the faid year, having feen the opinion of the royal judges in office, his faid excellency the governor and captain-general has faid, that it was conformable to his own opinion; and that the title-deed, for which Juan Chriftotomo petitions, be difpatched and delivered him; and that as to what he is to pay for the faid pine-woods wherein the grant confifts, that was made him in his majefty's name, his excellency fhall advife and agree with the faid royal judges in office: and this he has refolved and ordered; which I atteft.

The gover-
nor's order
made on the
foregoing
report.

This is the ordinance of his excellency Don Pablo de Yta y Zalazar, governor and captain-general of this town and provinces of Florida; and this I have registered on the fixth of November, fixteen hundred feventy-feven: which I atteft.

Before me

A L O N Z O S O L A N A,
Notary publick for this government.

Exhibit, N^o XVII.

IN the town of St. Auguftine in Florida, November the eighth, fixteen hundred feventy-feven, his excellency Don Pablo de Yta y Zalazar, governor and captain-general thereof, in his majefty's name, having feen the petition prefented in behalf of Juan Chriftotomo, with regard to the claim that he forms, and together heard the opinion thereon of the judges in office of the royal domain, which they have alfo delivered in writing; and having regard to the kind of lands, whereon he, the faid Juan Chriftotomo, is feeding and rearing up his cattle; which lands are called *De Palica*; and confidering alfo the title-deed graciously granted him in the ufual form, and in his majefty's name for that purpofe, which title-deed has put him in poffeffion of a tract of three leagues in extent, one and a half on each fide, to the effect that he might thereon build a houfe and fettle a farm, which were wanting: and whereas it is of publick notoriety, as he fets forth in his petition, that he has bought feveral

A renewed
grant of
lands which
had been be-
fore granted
to Juan Chri-
ftotomo, at
fuch fine
as the officers
of the royal
revenue
fhould fet.

A P P E N D I X.

pieces of land by the sea-side, as without them it would not have been possible to settle and establish a profitable farm; and as he has bought the said lands in order to avail himself of the two plentiful streams that run close to the said grant, that his cattle may be confined within those two streams and the river which runs from this town to the place called *La Barra de Matanzas*: for the reasons and on the considerations above expressed, his excellency the governor and captain-general, confirms again the grant of the three leagues aforesaid, on the supposition that such a confirmation is no ways prejudicial to any third person that might have a previous right to the said tract of land, or any part thereof; which grant was made to the said Juan Chrifostomo, in his majesty's name, to the end that he might settle and establish in the lands above-mentioned, and in any part of them that may appear to him fitter for such purpose, a farm stocked with cattle: and his excellency orders, that no body do hinder him in so doing; and that he, his heirs, successors, and whoever shall have title and right from him, do possess and be owner of the same; and that he may feed and rear up what cattle he has now, and may henceforwards have, and enjoy such grant freely and without any molestation, paying into the royal treasury of this town and province such sum or sums as he shall be ordered and assessed to pay (for that part of the royal domain which was granted him as above-said) by his excellency and the officers of the royal revenue. In consideration whereof, his excellency the governor and captain-general does give and confer on the said Juan Chrifostomo as full and sufficient power as is required to put himself in full possession of the premises; and of this grant and title, his excellency does give him, and will give him, such voucher or vouchers as he the said Juan Chrifostomo shall demand, authenticated in due form, so that they may prove valid in law. About all which, and with regard to this original title-deed, his excellency has interposed, and does interpose his authority and judicial decree: and so he has determined and ordered; and has signed the same in the presence of me, the notary publick; which I attest.

Don PABLO DE YTA Y ZALAZAR.

Before me
ALONZO SOLANA,
Notary publick for this government.

THE

A P P E N D I X.

THE above copy agrees with its original, which remains in my power and office, whereto I refer: and that it may become of publick notoriety, at the request of the party, I give this present copy. St. Augustine in Florida, November the fifteenth, sixteen hundred and seventy-seven; and I do sign this, as containing the truth.

The register's
certificate of
the authenti-
city of the
above deed.

ALONZO SOLANA,
Notary publick for this government.

Exhibit, N^o XVIII.

IN this town of St. Augustine in Florida, January the twenty-first, sixteen hundred and seventy-eight, his excellency Don Pablo de Yta y Zalazar, governor and captain-general of these provinces for the king our sovereign, and Don Antonio Menendez Marquez, chancellor of the exchequer, and Francis de la Rocha, treasurer and commissary, have said and declared, that, on consideration of its being a truth of publick notoriety that Juan Chrisostomo has bought the chief parts of the estate which he possesses, and bought it of persons who respectively possessed them under a just and legal title; and on consideration that a grant is only made to the said Juan Chrisostomo of some pine woods in the neighbourhood of the said estate, for the purpose of his feeding his cattle therein; he, the said Juan Chrisostomo, by the authority above-said, is taxed and ordered to pay thirty dollars into this royal treasury, which thirty dollars are to be applied towards the carrying on the building of the fortrefs. And their excellencies have signed this their ordinance.

The report of
the said offi-
cers that the
said fine was
set at thirty
dollars.

Don PABLO DE YTA Y ZALAZAR.
Don ANTONIO MENENDEZ MARQUEZ.
FRANCISCO DE LA ROCHA.

Exhibit,

A P P E N D I X.

Exhibit, N^o XIX.

A certificate
that the said
sum of thirty
dollars had
been paid.

AND we the judges in office of the royal domain in these provinces, give this present certificate to Juan Chrisostomo, an inhabitant of this town, that he has paid and delivered the said thirty dollars for the grant of some pine-woods, which was made him to the end that he might feed and rear up his cattle in the neighbourhood of the lands that he has bought; and that this may become of publick notoriety, we the judges in office aforesaid give and deliver him this present deed, made in St. Augustine in Florida, on February the thirteenth, sixteen hundred seventy-eight.

Don ANTONIO MENENDEZ MARQUEZ.
FRANCISCO DE LA ROCHA.

Exhibit, N^o XX.

A deed of
sale from
Don Antonio
Menendez
Marquez to
Juan Chri-
stomo of a
tract of culti-
vated land,
situate with-
in the boun-
daries men-
tioned in the
petition.

LET all those who shall see this writing know, that I captain Don Antonio Menendez Marquez, chancellor of his majesty's exchequer, and judge in office for the royal domain in these provinces in Florida, do publickly declare by means of this writing, that I do really and affectually sell to Juan Chrisostomo, an inhabitant of this town, a piece of land, which may be sowed with Indian corn to the quantity, little more or less, of six *Arrobas*, that I have and possess as being my own, situate on the south side of this town, and within the district called *Los Corrales*, bounded on the south by the lands belonging to the serjeant-major Domingo de Leturindo, and on the east, inclining somewhat to the north, by a pine wood; which said piece of land I sell to the said Juan Chrisostomo free from all kind of mortgage, burthen, and other obligations; and this I engage to make good with my person and goods; and I sell the same for the price of eighty dollars of eight reals each; which sum he has paid and given me, and is in my actual possession; wherefore I do say, that I am paid and satisfied to my full will: on which account I renounce hereby the laws entitled *De la Entrégo y su Pruéva*, as far as they may favour me: and I say and declare, that I have received and have been paid the said sum in good form; wherefore I make over and transfer all my right and property, advantages, and dominion over

A P P E N D I X.

over the said land, and give it all up to the said buyer, that he may possess, sell, give away, or alienate the same at his choice and will, as a thing which is now his own, got and acquired with his own money. *And as a voucher of his possession, I give him this present writing, that by virtue of the same he may immediately take possession of the said piece of land;* and I give him power in the amplest and most authentic form over the same, to the end that he may make his title good in law, *without any further act or formality;* and I bind myself to the security, eviction, and reality of this sale in the best form that I can, as I am thereto justly obliged, so as to render it sure and certain at all times, under the express binding of my person and my goods present and future, possessed and to be possessed: and I give full power to all his majesty's judges and magistrates, and any of them, before whom this writing, *or a legal copy of it,* shall be presented, to compel and force me to the accomplishment of it, in all the rigour of the law, and in an executive way, as if the same were a definitive sentence passed by a competent judge on a thing lawfully decided: and I renounce all laws and statutes whatsoever that may favour me in this case, and particularly that which prohibits the general renunciation in form.

And I the said Juan Chrisostomo, who am here present, do accept of this writing according to the tenor thereof, and declare, That I receive the piece of land aforesaid, and from this moment renounce the laws entitled *De la Entrégo y su Prueba*, as it is in them contained: and we, both parties, declare all this in the presence of the publick notary and witnesses. Done in this town of St. Augustine in Florida, August the fourteenth, sixteen hundred and eighty-two. And I the publick notary attest, that I do personally know the contracting parties who have signed this writing in my office; and the witnesses were captain Francisco Gonzales de Villa Garcia, Don Juan del Pueyo, and Martin Lorenzo de Lavora, all present.

Don ANTONIO MENENDEZ MARQUEZ.
JUAN CHRISOSTOMO.

Before me

ALONZO SOLANA,
Notary publick for this government.

THIS

A P P E N D I X .

The notary's
certificate of
the authen-
ticity of the
above deed.

THIS copy agrees with its original, which remains in my power and office :
and that it may become of publick notoriety, at the request of the said Juan
Chrisostomo, I give the present copy. In the said town of St. Augustine in
Florida, August the twenty-third, sixteen hundred and eighty-two. And I sign
it with my name, as containing the truth.

ALONZO SOLANA,
Notary publick for this government.

Exhibit, N^o XXI.

The certifi-
cate of the
royal notary
publick of
the authenti-
city of the
foregoing in-
struments, &c

THE above five writings of sale and permutation, and the two deeds and
instruments of grants, and all other deeds and instruments thereto rela-
ting, agree with the original testimonials, which are and remain in my power
and archive, whereto I refer. And at the request of Francisco Chrisostomo,
a native and inhabitant of this town, lawful grandson to that Juan Chrisostomo
who transacted the aforesaid, I give this copy, written in twelve sheets, au-
thenticated with a cross, which is my own distinctive sign, in St. Augustine
in Florida, October the fifteenth, seventeen hundred and sixty-three.

In testimony  of the truth,

JOSEPH DE LEON,
His majesty's publick notary for civil and military affairs.

Exhibit, N^o XXII.

Exemplifica-
tion of cer-
tion clauses
in the will of
Donna Lo-
renza Aran-
gues y Sartu-
cha, the pe-
titioner's

IDON Joseph de Leon, his majesty's notary publick for civil and military
affairs, and inspector of the royal domain in this town and provinces of
Florida, in the best form that I can, do certify, attest, and give testimony, that
the archive of these provinces is in my custody, and it is in the same that must
be deposited all instruments and writings about deeds of sale and testamentary
dispo-

A P P E N D I X.

dispositions, as well as all those which relate to the rights and titles to lands and possessions, grandmother, by which he claimed part of the lands mentioned in his petition; and also the royal notary publick's certificate of the authenticity of the foregoing deeds.

But it so happened, that the said archive has suffered great damages on various occasions. The first was in fifteen hundred eighty-seven, when admiral Drake, an Englishman, entered and burnt this town of St. Augustine, when the archive perished in the flames: the second, in the year sixteen hundred sixty-eight, when the French sacked and burnt it likewise: and the instruments which were executed and registered from that time until the year seventeen hundred and one, perished in the formal siege which colonel Moor laid to this royal garrison, and who entirely destroyed this city by fire: and lastly, in the year seventeen hundred and forty-four, when the house of the publick notary Don Francisco de Castilla, which stood facing the sea-side, was set on fire, and a considerable part of the publick writings of the afore-mentioned tendency were likewise burnt and destroyed; which publick writings were entrusted to his custody; but in the confusion that is usual in such cases, some papers were missed, many entirely burnt and consumed, and others stained and damaged by the water employed in putting out the fire; things of publick notoriety. The consequence of all those calamities was, that the said archive was deprived of almost all the documents that it contained; and though great diligence has been used in collecting many testimonials and vouchers of testaments, writings, and other papers, which several of the inhabitants preserved and had still in their power, it was not possible to collect them all, *as it is not the custom among us for each one to keep in his own custody the precise vouchers of the instruments which are authentically done, being satisfied that their originals are all preserved in the archive.* Wherefore, having collected and registered with all possible sollicitude and exactness those copies that were to be got, relative to the rights of possession claimed by Francisco Chrisostomo to the lands, which form the district called *De Palica*, belonging to him of publick notoriety, as inherited from his ancestors, we have been able to recover the testimonials hereunto annexed of his title-deeds and instruments of sale and permutation, which are comprized in twelve sheets of paper, together with the will and testament made by Donna Lorenza de Arango y Sartúcha, lawful grandmother to the said Francisco Chrisostomo, taken by Juan Solana, who was notary publick for this

A P P E N D I X.

government, on February the seventh, seventeen hundred and five, in which testament are two clauses, the tenor whereof is literally as follows :

“ 12. *Item*, I declare that the piece of land is my own which is bounded by
“ the district called *Los Corrales*, whereon the quantity of eleven *Arrobas* of
“ Indian corn are commonly sown. It runs so far as the estate belonging to
“ Manuel Rodriguez. And I declare this, that it may be of publick noto-
“ riety.

“ 13. *Item*, I declare that another piece of land is likewise my own, situated
“ in the district called *El Monte de la Cazia*, whereon the quantity of three
“ *Arrobas* are sown. And this I also declare, to the end that it may be of
“ publick notoriety.”

Which two said pieces of land were bequeathed by the said Donna Lorenza de Arango y Sartúcha, relict of the captain of infantry Don Manuel Ponce de Leon, and mother to Donna Maria Ponce de Leon, lawful mother to the said Francisco Chrifostomo, to whom the said pieces of land actually belong, as inherited in the conformity aforesaid.

All this appears by means of the said testament and clauses in it, and by other instruments, deeds, and writings that accompany it, which are in my custody in the said archive, whereto I refer.

And by virtue of the aforesaid, as well as in compliance with an order issued last month by his excellency the governor and captain-general of these provinces, I give the present certificate, dated in the town of St. Augustine in Florida, October the first, seventeen hundred sixty-three.

JOSEPH DE LEON,

His majesty's notary publick for civil and military affairs.

Exhibit,

A P P E N D I X.

Exhibit, N^o XXIII.

IN this town of St. Augustine in Florida, October the seventeenth, seventeen hundred sixty-three, I Don Juan de Cotilla, captain and engineer in his majesty's armies, residing in this town as judge-commissioned for the ascertaining and justifying the rights and titles to lands, and other kinds of property of these inhabitants, under the authority of his excellency Don Melchor Felu, lieutenant-colonel of the regiment of Spain, governor and captain-general of these provinces, having seen the instruments and deeds made at the request of Francisco Chrifostomo, a native and inhabitant of this town, lawful son to Juan Chrifostomo and Donna Maria Ponce de Leon, both dead; the first of whom was lawful son to another Juan Chrifostomo, and the second was lawful daughter to Donna Lorenza Ruiz de Arango, lawful progenitors of the aforesaid Francisco Chrifostomo, all natives and inhabitants of this town, with respect to the declaration to be made of the title and right to the property which the said Francisco Chrifostomo has from the aforesaid persons inherited over the lands that go by the name of *Palica*, situate to the south of this town at the distance of four leagues; which lands run from the *Boca del Caño de Palica* to the *Boca del Caño del Norueste*, on an extent of three leagues to the west, bordering on the north side with the arable lands belonging to the neighbouring farm houses, to the south with the estate called *Los Corrales*, belonging to Don Juan Benedict Horrutiner, and to the east with the estates of *Sn. Onofre y Pirigirigua*, belonging to Don Diego and Don Antonio Arguelles: which said lands were bought by the above-mentioned Juan Chrifostomo, grandfather to the said Francisco Chrifostomo, of various inhabitants of this town, as it appears by the annexed testimonials of their sales, and were partly obtained by grants made to the said Juan Chrifostomo in his majesty's name by their excellencies the governors and captain-generals, and in consequence of the certificate made and given by his majesty's notary publick for civil and military affairs: I declare and say, that I ought to give, and do give, at the suit and request of the said Francisco Chrifostomo, this present certificate, and other documents thereunto annexed; and I ought to declare, and do declare, that

The report and certificate of Don Juan de Cotilla, that it appeared to him after due examination that Don Francisco Chrifostomo had a good title by inheritance to the lands mentioned in his petition.

e 2

he,

A P P E N D I X.

he, the said Francisco Chrifostomo, *is the lawful owner and possessor of the said lands that go under the denomination of Palica, having inherited and acquired them from his lawful ancestors, to whom the same lawfully belonged, and by a just title*; and that, in virtue thereof, he has a right to sell and alienate them at his will and pleasure, inasmuch as the aforefaid instruments, deeds, and writings give him an absolute, sufficient, and lawful power to execute such sale and alienation in the form that he may think best; provided it be to subjects of his Britannick majesty, as is prescribed by the twentieth article of the Definitive Treaty made at Paris on February the tenth of his present year, and within the time limited by the said article, delivering to the buyers the original and authentick writings, deeds, and instruments whatsoever thereto belonging, that they may validate and make good their titles and rights to whatever they may or shall buy of him, and together leaving a copy of each such paper with the present royal notary, by him to be deposited and kept in custody in the archive: and to this end the said judge-commissioned has declared and declares as above, and has signed this.

JUAN DE COTILLA,

Before me

JOSEPH DE LEON,

His majesty's notary publick for civil and military affairs.

DATED in St. Augustine in Florida, October the seventeenth, seventeen hundred sixty-three. I have personally given notice of the above ordinance to Francisco Chrifostomo, an inhabitant of this town: which I attest.

JOSEPH DE LEON.

Exhibit,

The deed of
conveyance
of the lands
of Palica
from Don
Francisco
Christofomo
to Mr. Gor-
don and Mr.
Fith.

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2

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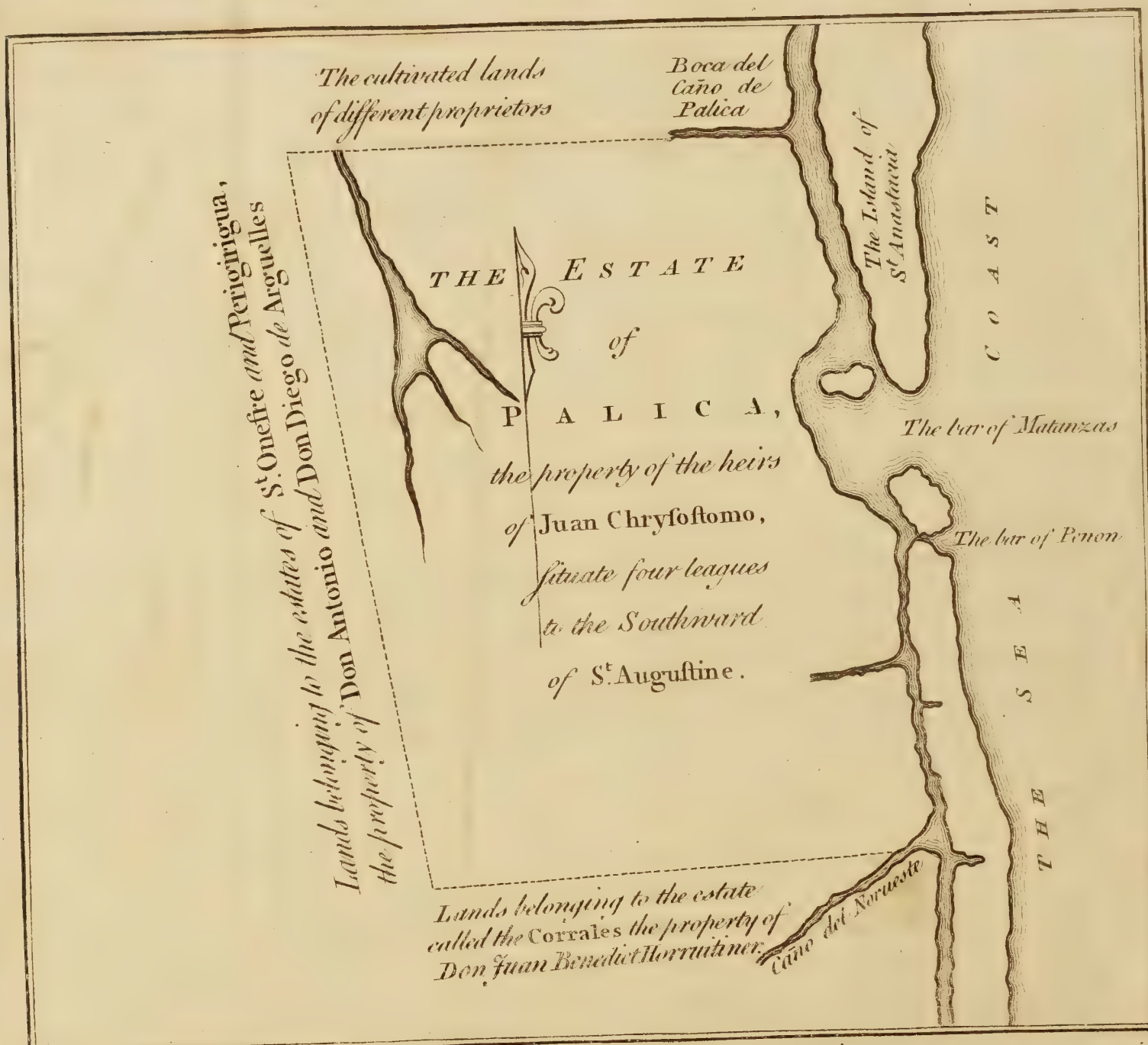
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2

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1

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*A plan of the lands of the estate
called **PALICA**
which Juan Chrysofomo settled in the Year 1676
and which is now the inheritance
of FRANCISCO CHRYSOSTOMO his Grandson.*

A Scale of 5 Spanish Leagues.

A P P E N D I X.

Exhibit, N^o XXIV.

L E T all who shall see this publick writing of real and actual sale know, The deed of conveyance of the lands of Palica from Don Francisco Chrifostomo to Mr. Gordon and Mr. Fish. that I Francisco Chrifostomo, lawful son to Juan Chrifostomo, and grand-son to Juan Chrifostomo, both dead, and all natives and inhabitants of this town, that making use of the power given me by the twentieth article of the Definitive Treaty of peace, made at Paris on February the tenth of the current year, between his Catholick majesty our lord the king, and his majesty the king of Great Britain, I do give up, and really and effectually sell to Don John Gordon, and to Don Jesse Fish, both English by nation, and both residing in this town, the lands that form the estate called *Palica*, situate four leagues to the south of this town, which consist of four leagues and a half of ground, extending along the bank of the stream that from this town runs to the *Barra de Matanzas*, from the *Boca del Caño de Palica* to the *Boca del Caño del Norueste*, upon a breadth of three leagues, as well to the west running to the northward along the fields and lands called *Los Corrales*, belonging to the heirs of Don John Benedict Horrutiner, and to the east with the estate called *Sn. Onofre y Pirigirigua*, belonging to the heirs of Don Diego and Don Antonio Arguelles: which said lands are my own, and lawfully such, inasmuch *as I have inherited them of my ancestors*, as it appears and is evident by the judicial acts, deeds, and instruments produced to this effect; which said acts, deeds, and instruments, in their originals, together with the plan of the said lands, are exhibited along with this present writing.

And the said lands, with all their fields, plains, hills, pools, streams, ways-in, and ways-out, free and disencumbered from all mortgage, obligation, and burthen towards the king as well as towards any particular persons, *as I and my ancestors have possessed them*, I do sell to the said Don Juan Gordon and Don Jesse Fish, for the price and value of four thousand five hundred pieces of eight*, three thousand whereof in cash, and the other fifteen hundred in goods or effects to my satisfaction; all which I have received: where-

* Seven hundred and seventy pounds sterling and upwards.

A P P E N D I X.

fore I declare myself duly and perfectly paid and satisfied; and thereupon renounce and disclaim the laws intituled *De la Entrega, De la non Numerata Pecunia*, and all other relative to this case: and in consideration of the said sum and effects, I dispossess myself of all property, advantages, dominion, and all other personal rights which I had to the said lands, and give up, yield, and transfer them all to the said Don Juan Gordon and Don Jesse Fish, their heirs, successors, and whomsoever shall have title and right from them for ever; so that they may and do possess them as their own, and sell, give away, exchange, or alienate them at their own will and pleasure by virtue of this present writing, which I make in their favour as a voucher of this sale; so that it may be of publick notoriety that they are possessed of the said lands, without any necessity of having recourse to any further proof, whereof I fully acquit them.

And as to the eviction, security, and guaranty of this sale, I bind my person and goods, present and future, and give power to all judges and magistrates whatsoever to compel me to the accomplishment of the premises to the utmost rigour of the law, in like manner as in case of a decree or sentence lawfully given and pronounced on a thing ultimately adjudged, and by me consented to, inasmuch as I renounce and disclaim all laws, statutes, rights, and privileges that might operate in my favour.

And we the said Don John Gordon and Don Jesse Fish, being both here present, do accept of this writing, and by virtue thereof we receive as bought the aforesaid lands which form the estate called *Palica*, together with all the hills, plains, fields, pools, goings-in, and comings-out, that are comprehended and included within the boundaries above expressed; and we declare that we have received them in a satisfactory manner: whereupon we renounce and disclaim all proof of the laws entitled *De la Entrega, y de la Cosa non vista, ni recibida dolo*, and all other that are or may be relative to this case, and we confess that we have received them as above.

And as a voucher to all the aforesaid, this writing has been made in this town of St. Augustine in Florida, October the twentieth, seventeen hundred and sixty-three: and the contracting parties, whom I, the royal notary publick, do

A P P E N D I X.

do personally know, declare and have declared all that is above, and they sign it; and the witnesses are, Don Manuel Ziburu, Don Luis Marquez Pachelio, and Don Joseph del Olmo, his majesty's interpreter, all present.

FRANCISCO CHRISOSTOMO.
JOHN GORDON.
JESSE FISH.

Done before me

(In attestation whereof I here affix my sign

In testimony  of the truth)

JOSEPH DE LEON,
His majesty's notary publick for civil and military affairs.

Exhibit, N^o XXV.

DON Juan de Cotilla, captain engineer in his Catholick majesty's armies, The certificate of Don Juan de Cotilla, that Don Joseph de Leon executed the office of royal notary publick, &c. and that the sale was completed within the time limited by the definitive treaty of peace.
named and commissioned by the royal general council of this town for the sales and alienations of the estates and effects which the inhabitants shall leave behind (as by a royal order they are to leave this place, it being to be delivered up to his Britannick majesty) and judge-commissioned by his excellency the governor and captain-general of these provinces for the ascertaining and declaring the rights and titles which the inhabitants have to the estates and goods inherited from their ancestors and predecessors.

By virtue whereof I do hereby certify, that Don Joseph de Leon, whom the foregoing bill of sale appears to be signed by, is notary publick to his majesty for civil and military affairs in this town and provinces, and that he uses and exercises the said office faithfully and legally, and that to all his writings, deeds, and instruments an entire faith and credit has always been and is given, both in and out of judgment; and that likewise in his archive are found

A P P E N D I X.

found all the justificative documents respecting the rights that these inhabitants respectively have to the property of their estates: in virtue whereof, and of acts, deeds, instruments, and other writings past, this present writing of sale has been made between lawful parties as above expressed; and was authenticated within the term of the eighteen months fixed in the above-mentioned twentieth article of the said Definitive Treaty of peace.

And to prove and authenticate the same, I do deliver this certificate, signed with my own hand-writing, and sealed with the seal of my arms, in St. Augustine in Florida, October 21, 1763.

(L. S.)

JUAN DE COTILLA.

Exhibit, N^o XXVI.

The certificate of his excellency the governor, and the treasurer of the royal revenues, that the venders of the several lands purchased by Mr. Gordon and Mr. Fish had respectively good titles thereto, and that they by good and sufficient conveyances are become the legal proprietors thereof.

WE Don Melchor Feliu, lieutenant-colonel of the second battalion of Spain, and governor and captain-general for the time being of this garrison and province, and Don Juan Estevan de Pena, treasurer and officer of the royal revenues for his Catholick majesty, do certify that Mr. John Gordon, an inhabitant of Charles Town, and Mr. Jesse Fish, a native of New York, both at present residing in this place, and subjects of Great Britain, by virtue of the twentieth article of the treaty of peace executed in Paris between our court and that of Great Britain the 10th of February in the current year (by which the vassals of his Catholick majesty are permitted to sell to those of Great Britain aforesaid all their estates and possessions) have effectually purchased those various estates called *Pupo* and *Palica*, Pajacara, Sn. Diego and La Nea, Sn. Buena Ventura and Tocoy, Sta. Lucia, Sn. Lorenzo de Aramafaca, Sn. Matheo, Sn. Nicholas, Sn. Geronimo, Arato and Exapile, Picalata, Sn. Onofre and Pirigirigua, St. Phelipe and Aracu, Los Corrales and Yquirico, Sta. Ana de Afafa, Tocacruz, Yquifai, La Rosa del Diabolo, Aquitasique, La Chua, Abofalla and Tampa, the which altogether contain one thousand and fifty-eight square leagues, more or less, as appears and is set forth by the plans of the same, affixed

A P P E N D I X.

affixed every one by itself to its respective deed of actual sale, sold by Don Francisco Chrifostomo, Don Pedro Benedict Horrutiner, Don Antonio Fernandez, Don Alonzo de Cardenas, Don Lorenzo de Leon, Don Phelipe Benedict Horrutiner, Don Simon de Hita y Salazar, Don Casimiro de Hita, Don Diego Horencia y Salas, Don Juan Joseph de Arransatte, and Don Ambrosio Menendez Marques, all inhabitants of this city and subjects of his Catholick majesty; which said estates those said subjects of his Catholick majesty have respectively *inherited from their ancestors, and possessed with proper titles and lawful rights which they have justified before the captain Don Juan de Cotilla, engineer of the royal armies of his Catholick majesty, and judge-commissioned by our junta for the intendency of those mentioned estates, and other real and hereditary rights of those Spanish subjects in this place*: upon which, being thoroughly informed and satisfied of the legality with which those aforesaid subjects of his Catholick majesty have sold to the said John Gordon and Jesse Fish, we do also certify, that the said John Gordon and Jesse Fish *are now the real and true owners of those afore-mentioned estates by virtue of that respectable treaty, and formal instruments of their purchases which they have produced before us*: and we declare that Don Juan de Cotilla was the judge-commissioned for the intendency of these said and before-mentioned examinations and enquiries; and that all faith and credit is and ought to be given to all that he has testified concerning the same.

We give these presents signed with our hands, and sealed with the seal of this *royal contaduria*, and counter-signed by the secretary of government, war, and royal revenues in St. Augustine in Florida, the 2d of December 1763.

(Signed)

MELCHOR FELIU.

JUAN ESTEVAN DE PENA.

L. S.

By command of his excellency, &c.

JOSEPH DE LEON,

Ess^{no} de Gov^{no} y Guérra.

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Exhibit,

A P P E N D I X.

Exhibit, N^o XXVII.

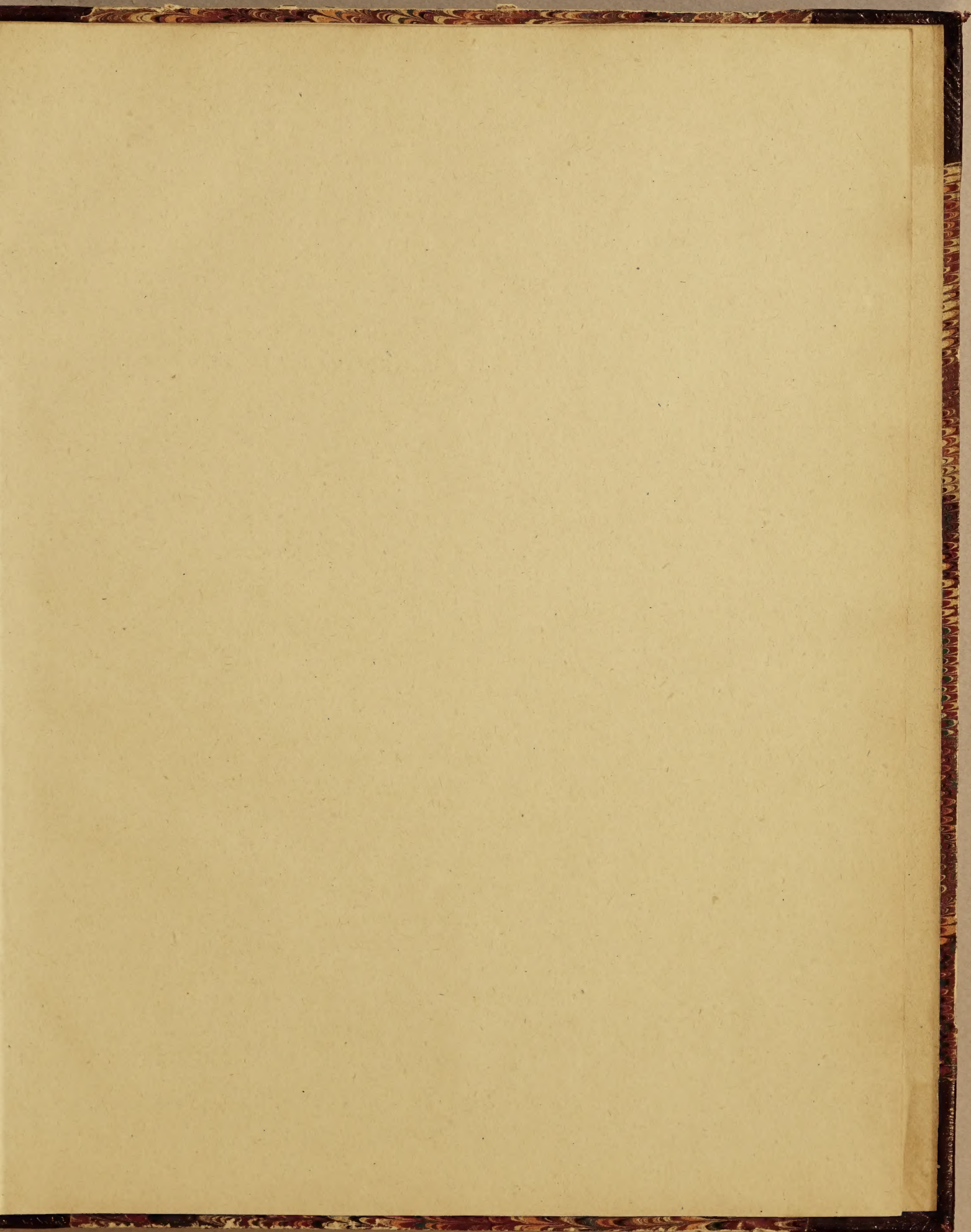
By Francis Ogilvie, esquire, major of his Britannick majesty's ninth regiment of foot, and commander in chief of East Florida for the time being.

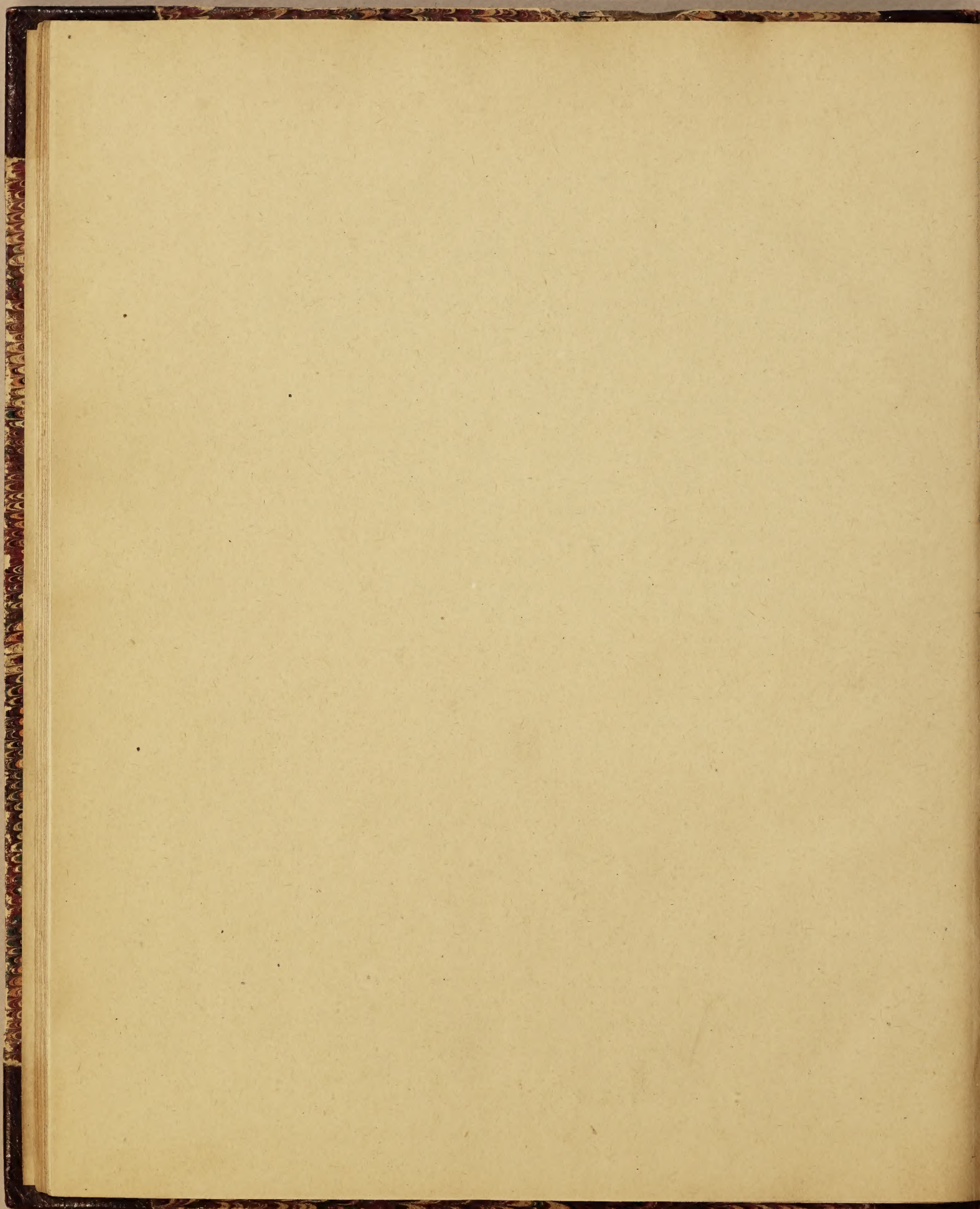
Major Ogilvie's certificate of proof made before him of the due execution of the several deeds under which Messrs. Gordon and Fish claim the lands in question.

TH E S E are to certify, That Jesse Fish of this place, merchant, came before me, together with Joseph Delorme, English interpreter for the late Spanish governor of this precinct, and produced eighteen bills of sale or conveyances (in Spanish) of estates or tracts of land on the river St. Juan and other parts of Florida, with plans and other papers thereto affixed, certified under the hand and seal of Don Juan de Cotilla: that the said Joseph del Ormé, being duly sworn on the Holy Evangelists, made oath and deposed, that he was present and did see the persons mentioned in the said bills of sale, namely Francisco Chrisostomo, Don Pedro Benedict Horrutiner, Don Antonio Fernandez, Don Alonzo de Cardenas, Don Lorenzo de Leon, Don Phelipe Benedict Horrutiner, Don Simon de Hita y Salazar, Don Casimiro de Hita, Diego Floren-
cia y Salas, Don Juan de Arransatte, and Don Ambrosio Menendez Marquez, *sign, and, as their acts and deeds respectively, deliver the same, with the plans and other papers to each of them affixed, unto John Gordon and Jesse Fish for the consideration-money in each of them mentioned, the receipt whereof they the said persons, and each of them, did acknowledge, and that they were therewith fully content and satisfied; and that the said bills of sale or conveyances are and consist of the estates or tracts of land called Pupo and Palica, Pajacara, Sn. Diego and La Nea, Sn. Buena Ventura and Toco, Sta. Lucia, Sn. Lorenzo de Aramafaca, Sn. Matheo, Sn. Nicholas, Sn. Geronimo, Arato and Exapile, Picalata, Sn. Onofre and Pirigirigua, Sn. Phelipe and Aracu, Los Corrales and Yquirico, Sta. Ana de Afafa, Tocacruz, Yquifai, La Rosa del Diabolo, Aquitasique, La Chua, Abosalla, and Tampa.*

Given under my hand and seal at St. Augustine,
this first day of December, in the year of our
Lord 1763.

FRANCIS OGILVIE,
Commanding Florida.





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